

**ORIGINAL**

**Eye Surgery Center of**  
**Knoxville**

**CN1611-038**



## State of Tennessee

### Health Services and Development Agency

Andrew Jackson Building, 9th Floor, 502 Deaderick Street, Nashville, TN 37243  
[www.tn.gov/hsda](http://www.tn.gov/hsda) Phone: 615-741-2364 Fax: 615-741-9884

## CERTIFICATE OF NEED APPLICATION

### SECTION A: APPLICANT PROFILE

#### 1. Name of Facility, Agency, or Institution

Eye Surgery Center of Knoxville

Name

Dannaher Drive

Street or Route

Knox

County

Powell

City

TN

State

37846

Zip Code

Website address: N/A

Note: The facility's name and address must be the name and address of the project and must be consistent with the Publication of Intent.

#### 2. Contact Person Available for Responses to Questions

Stephen H. Rudolph

Name

CPA

Title

Eyecare Resources, LLC

Company Name

shrudolphsr@yahoo.com

Email address

P.O. BOX 381342

Street or Route

Germantown

City

TN

State

38183-1342

Zip Code

Consultant

Association with Owner

901-219-0173

Phone Number

N/A

Fax Number

**NOTE:** **Section A** is intended to give the applicant an opportunity to describe the project. **Section B** addresses how the project relates to the criteria for a Certificate of Need by addressing: Need, Economic Feasibility, Contribution to the Orderly Development of Health Care, and Quality Measures.

Please answer all questions on 8½" X 11" white paper, clearly typed and spaced, single or double-sided, in order and sequentially numbered. In answering, please type the question and the response. All questions must be answered. If an item does not apply, please indicate "N/A" (not applicable). **Attach appropriate documentation as an Appendix at the end of the application and reference the applicable Item Number on the attachment, i.e., Attachment A.1, A.2, etc. The last page of the application should be a completed signed and notarized affidavit.**

### 3. SECTION A: EXECUTIVE SUMMARY

#### A. Overview

Please provide an overview not to exceed three pages in total explaining each numbered point.

- 1) Description – Address the establishment of a health care institution, initiation of health services, bed complement changes, and/or how this project relates to any other outstanding but unimplemented certificates of need held by the applicant;
- 2) Ownership structure;
- 3) Service area;
- 4) Existing similar service providers;
- 5) Project cost;
- 6) Funding;
- 7) Financial Feasibility including when the proposal will realize a positive financial margin; and
- 8) Staffing.

#### RESPONSE:

**Description of Project-** *The Applicant-Eye Surgery Center of Knoxville, LLC is seeking approval to establish a new single specialty ambulatory surgical treatment center (“ASTC”) in Knox County, TN, for the purpose of performing ophthalmic surgical cases and related ophthalmic laser procedures. Initially, there will be six (6) Board certified ophthalmologists from four (4) well established ophthalmic practices in Knox County, TN, that will be performing the eye surgery within the facility. The participating physicians are Stephen Franklin, MD, John Dawson, MD, Kevin Gallaher, MD, Steven Sterling, MD, Tom Browning, MD, and Matthew Lowrance, DO. These six ophthalmologists will also constitute the ownership of the ASTC. The facility will be limited to the performance of ophthalmic surgery and laser procedures not requiring general anesthesia. The proposed ASTC site is located on the south side of Dannaher Drive (without an address currently) on a 1.6 acre parcel in the North Knoxville area of Powell, Knox County, TN. This location is approximately 0.2 miles east of the owner’s office located within the Southeast Eye Center-Medical office building at 7800 Conner Road, Powell, TN 37849 which currently houses two of the four ophthalmic medical practices (Center for Sight, PC & East Tennessee Eye Surgeons, PC) associated with the project. The two other Knoxville-based practices associated with the project are each located approximately 11 miles from the proposed ASTC site. The proposed freestanding ambulatory surgery center will be approximately 4,200 square feet and will have two (2) operating rooms and one (1) laser procedure room for performing the ophthalmic surgery. The Applicant is a new institution and the project does not include any major medical equipment or require bed complement changes and holds no other outstanding certificates of need.*

**Ownership Structure-** *The facility will be owned by Eye Surgery Center of Knoxville, LLC (ESCK), a Tennessee Limited Liability Company. The LLC will be managed by its member owners who will be performing the surgery in the Facility as well. The member owners and their relationship to the four ophthalmic medical practices (referred to as the “ESCK group”) are set forth in the chart below.*



## OWNERSHIP STRUCTURE CHART FOR EYE SURGERY CENTER OF KNOXVILLE, LLC

<b>AFFILIATED MEDICAL PRACTICE ENTITY:</b>	<b>PARTICIPATING OWNER &amp; SURGEON IN ESCK-ASTC:</b>
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***Center for Sight, PC***

Physician Owners:

Stephen R. Franklin, MD

Kenneth L. Raulston, MD

7800 Conner Road

Powell, Tennessee 37849

Stephen R. Franklin, MD

***East Tennessee Eye Surgeons, PC***

Physician Owners:

John T. Dawson, MD

Kevin T. Gallaher, MD

7800 Conner Road

Powell, Tennessee 37849

John T. Dawson, MD

Kevin T. Gallaher, MD

***Steven L. Sterling, MD, PC***

Physician Owner:

Steven L. Sterling, MD

2607 Kingston Pike-Suite 182

Knoxville, Tennessee 37919

Steven L. Sterling, MD

***Eye Care Centers, PLLC dba***

***Tennessee Eye Care***

Physician Owners:

Thomas A. Browning, MD

Matthew D. Lowrance, DO

6354 Lonas Spring Drive

Knoxville, Tennessee 37909

Thomas A. Browning, MD

Matthew D. Lowrance, DO

*Note: Dr. Kenneth Raulston is an owner of Center for Sight, PC, but will not be an owner in Eye Surgery Center of Knoxville, LLC and will not be performing surgery within the ASTC.*

**Service Area-** The Service Area for this project includes eight counties in Tennessee-Anderson, Blount, Campbell, Grainger, Jefferson, Knox, Sevier & Union. The ASTC proposed site is ideally located in the North Knoxville area of Knox County to service this market and the development of this ASTC will provide a convenient quality eye surgery facility for patients referred from the four ophthalmic practices covering this growing market. Based on utilization of ambulatory surgical and hospital outpatient services provided by the ESKG group physicians in 2015, 86.35% of the patients served originated from this eight county Service Area.

**Existing similar service providers-** The following ASTCs perform eye services in the Service Area according to the Joint Annual Reports filed for 2015-TN HSDA:

*Eye Surgery Center of Oak Ridge-Anderson County- 2 OR/1 Procedure Room Multi-Specialty*

*Physicians Surgery Center of Knoxville-Knox County -5 OR/ No Procedure Room-Multi-Specialty*

*Eye Surgery Center of East Tennessee-Knox County-2 OR/1 Procedure Room-Eye Specialty*

*Knoxville Eye Surgery Center-Knox County-4 OR/1 Procedure Room-Eye Specialty*

*Southeast Eye Surgery Center-Knox County-1 OR/1 Procedure Room-Eye Specialty (closed staff)*

*All of the Eye Specialty ASTCs are highly utilized, at full capacity, and/or are closed staff. None of these existing ASTCs can accommodate the total need for the ophthalmic and related eye laser procedures performed by the ESKG group within the Service Area.*

**Project Cost-** The Applicant will be constructing a new facility on Dannaher Drive in Powell, Knox County, TN. The total land, site development and building construction costs are estimated at \$1,200,000 for the approximate 4,200 sq. ft. facility to be developed on the 1.6 acre ASTC site. Equipment Costs are estimated at \$500,000 and professional fees including architect, legal, engineering, consulting fees and CON fees are estimated to cost \$150,000. The total cost for the project is estimated to be \$1,850,000.

**Funding-** First Citizens Bank will provide 100% financing of the project's total cost of \$1,850,000. The bank financing will provide funding through a permanent construction loan for \$1,200,000-15 Yr term/with 20 Yr-monthly amortization, an equipment loan for \$500,000 with 84-month term, and a working line of credit for \$150,000 to fund the estimated start-up and organizational costs including all professional fees.

**Financial Feasibility-** The proposed Project will realize a profitable operating margin on an immediate basis once operations are initiated. The projected surgical case load is 4,014 in Year 1 and 4,416 in Year 2 of operation which will generate positive cash flow for the Project and net operating margins in excess of 46% in each of the first two years.

**Staffing-** The Medical Staff for the single specialty ophthalmic ASTC will initially consist of the six Board Certified ophthalmologists (the "ESKG group") that will also serve as Member managers and physician owners of the project. The Applicant anticipates initially serving the patients from the four

*medical ophthalmic practices from the ESCK group but will consider providing Medical Staff surgical privileges for the ASTC to other qualified ophthalmic physicians once the appropriate physician credentialing and admission policy for surgical privileges has been established by the organization. The ASTC will require 7.4 FTES consisting of three Registered Nurses (RNs), three surgical technicians (part-time), and two administrative (non-patient care) positions. The ASTC intends to contract with other qualified Professional Staff to provide professional anesthesia care at the facility.*

## **B. Rationale for Approval**

A certificate of need can only be granted when a project is necessary to provide needed health care in the area to be served, can be economically accomplished and maintained, will provide health care that meets appropriate quality standards, and will contribute to the orderly development of adequate and effective health care in the service area. This section should provide rationale for each criterion using the data and information points provided in Section B. of this application. Please summarize in one page or less each of the criteria:

- 1) Need;
- 2) Economic Feasibility;
- 3) Appropriate Quality Standards; and
- 4) Orderly Development to adequate and effective health care.

### **RESPONSE:**

- 1) ***Need:** There are several critical factors to consider in addressing the current and future needs for providing health care and more specifically eye care. Presently and for the foreseeable future there will be more seniors (65+ age group) and fewer doctors. The growth rate in the number of ophthalmologists at present is flat or 1% which has already created some serious labor shortages and this shortage is expected to escalate over the next ten years. The baby boomer generation continues to move towards the elder age bracket and this combined with lengthening life expectancy are major indicators that a dramatic increase in patients with age-related eye diseases will occur over the next 10 to 30 years. According to recent reports and studies conducted by Prevent Blindness America, the leading causes of vision impairment and blindness in the U.S. are primarily age-related eye diseases including age-related macular degeneration, cataract, diabetic retinopathy, and glaucoma. Cataracts are the most common cause of preventable visual impairment and it is estimated that currently 22 million Americans over the age of 40 have a cataract and by age 80, half of all Americans have a cataract. Estimates suggest that by 2020 the prevalence of cataracts in the U.S. will increase to 30.1million and by 2032 to 38.5 million. There are currently about 9,000 cataract surgeons treating about 4 million cataracts per year. The demographics of Tennessee and the proposed project's Service Area mirror the national aging trends of the population. The senior population (65+ age group) within the Service Area is expected to increase by 15.9% from 2016 to 2020.*

*It will be of increasing importance to be financially efficient, cost-effective and maximize the ophthalmologists productivity in addressing the patient needs in this evolving healthcare environment. There is a growing need to move cataract surgery as well as other eye surgery from*

*multi-specialty ASTCs and hospital settings to single specialty ophthalmic ASTCs where efficiency may be maximized. Ophthalmic ASTCs are able to concentrate on a smaller subset of procedures and gain efficiencies in equipment and technology, supply cost management, training of staff, and care of the patients in the preoperative and postoperative care area. One of the best ways to increase efficiency while addressing the growing needs for cataract and other eye surgery over the next decade will be to consolidate these ophthalmic cases within the Service Area into the Applicant's proposed single specialty ophthalmic ASTC.*

*The ESCCK group of six ophthalmic surgeons currently perform their ophthalmic surgical cases and laser eye procedures within the Service Area in three different hospital locations, one multi-specialty ASTC, and one single specialty ophthalmic ASTC. Some of the eye laser procedures are currently performed at their medical office. Several of these physicians provide eye care and perform surgery in rural hospitals beyond the Service Area. This proposed ASTC is intended to serve the Knoxville-based practice locations for the ESCCK group within the Service Area and the utilization, statistics, and projections in this application do not include these patients served beyond the Service Area. None of the existing ASTCs or hospital locations can address the total comprehensive eye care needs of the patients and ophthalmic surgeons within the ESCCK group.*

*There is a definitive need for additional surgical capacity in this Service Area. The number of operating rooms/procedures capacity in ASTCs providing eye services decreased from 31 to 18 since 2013. The existing ASTCs providing eye services are highly utilized and significantly exceed the State Guidelines. For the existing active ASTCs providing eye services within the Service Area the aggregate totals for 2015 were: OR (Operating Room) Utilization as a % of HSDA State Guidelines- 141.65% - ave.1789 cases/OR & PR (Procedure Room)- 27.86%-ave.743 cases/PR. The proposed project complies with State Guidelines and will not adversely affect the existing facilities.*

*The Applicant's goal is to increase the efficiency of the services that the ESCCK group of physicians can deliver by providing the entire scope of ophthalmic surgery and eye laser procedures to its patients at one convenient location in a quality care, cost-effective environment. HSDA approval of this ASTC development will enable this group to accomplish this goal and provide the latest technological advances in eye surgery to their patients.*

**2) Economic Feasibility:** *The ASTC's projected surgical caseloads from the six ophthalmic surgeons in the ESCCK group for the first two years of operation -4,014 Cases-YR 1 & 4,416 will generate significant positive cash flow for the Project. The net operating margin for the project is projected to exceed 46% in each year. The funding requirements for Applicant's total project cost of \$1,850,000 have been arranged through bank financing available from First Citizens Bank-Knoxville on favorable terms pending HSDA approval. The six Board Certified ophthalmologists-ESCCK group and their respective practices have continued to grow in patient volume and the surgical volume they generate will assure economic feasibility of the project. The single specialty ophthalmic ASTC facility can be developed at a reasonable cost and designed to achieve maximum operational efficiency and utilization at competitive charges. The accessibility and convenience of the facility for both physicians and their patients will also contribute to the project's success and overall economic feasibility.*

**3) Appropriate Quality Standards:** *Each of the four ophthalmic medical practices associated with the project have been successfully providing quality eye care services to patients in the Knoxville area for over twenty years. The six ophthalmic surgeons are all Board-certified and highly respected within the Knoxville healthcare community for providing quality eye care and surgery - Stephen Franklin, MD, John Dawson, MD, Kevin Gallaher, MD, Steven Sterling, MD, Tom Browning, MD, and Matthew Lowrance, DO. In addition, Dr. John Dawson is fellowship trained as a subspecialist in cornea and anterior segment surgery. Dr. Tom Browning and Dr. Matthew Lowrance are fellowship trained as subspecialists in medical retina. The Applicant's group is committed to excellence and will seek accreditation from Accreditation Association of Ambulatory Health Care (AAAHC) and will maintain the highest degree in standard of care for the patients they serve within the Facility.*

**4) Orderly Development to adequate and effective health care:** *The surgical capacity of the existing ASTCs providing eye services within the Applicant's Eight County Service Area is currently inadequate to provide effective health care for the aging population and the associated high prevalence of age-related eye diseases. The existing ophthalmic ASTCs are heavily utilized. The best solution for addressing this issue is to provide additional surgical capacity through the approval of cost-effective single specialty ophthalmic ASTC facilities designed for both patient and physician convenience, accessibility, and efficiency. The approval of this project will allow the six ophthalmic surgeons within the ESCK group to maximize their productivity and expand surgical capacity within the Service Area to a more appropriate level while addressing the growth in eye surgery required for this aging population.*

**C. Consent Calendar Justification**

If Consent Calendar is requested, please provide the rationale for an expedited review.

A request for Consent Calendar must be in the form of a written communication to the Agency's Executive Director at the time the application is filed.

**RESPONSE:** *Not Applicable-N/A*

#### 4. SECTION A: PROJECT DETAILS

##### Owner of the Facility, Agency or Institution

A. Eye Surgery Center of Knoxville, LLC

865-546-7140

Name

Phone Number

7800 Conner Road

Knox

Street or Route

County

Knoxville

TN

37846

City

State

Zip Code

##### B. Type of Ownership of Control (Check One)

A. Sole Proprietorship

F. Government (State of TN or  
Political Subdivision)

B. Partnership

G. Joint Venture

C. Limited Partnership

H. Limited Liability Company

D. Corporation (For Profit)

I. Other (Specify)

E. Corporation (Not-for-Profit)

Attach a copy of the partnership agreement, or corporate charter and certificate of corporate existence. Please provide documentation of the active status of the entity from the Tennessee Secretary of State's web-site at <https://tnbear.tn.gov/ECommerce/FilingSearch.aspx>. **Attachment Section A-4A.**

**Describe** the existing or proposed ownership structure of the applicant, including an ownership structure organizational chart. Explain the corporate structure and the manner in which all entities of the ownership structure relate to the applicant. As applicable, identify the members of the ownership entity and each member's percentage of ownership, for those members with 5% ownership (direct or indirect) interest.

**RESPONSE:** See Attachment Section A-4A.

##### 5. Name of Management/Operating Entity (If Applicable)

Name

Street or Route

County

City

State

Zip Code

Website address: \_\_\_\_\_

**For new facilities or existing facilities without a current management agreement, attach a copy of a draft management agreement that at least includes the anticipated scope of management services to be provided, the anticipated term of the agreement, and the anticipated management fee payment methodology and schedule. For facilities with existing management agreements, attach a copy of the fully executed final contract. Attachment Section A-5. RESPONSE:** N/A

**6A. Legal Interest in the Site of the Institution (Check One)**

- |                         |          |                    |       |
|-------------------------|----------|--------------------|-------|
| A. Ownership            | _____    | D. Option to Lease | _____ |
| B. Option to Purchase   | <u>X</u> | E. Other (Specify) | _____ |
| C. Lease of _____ Years | _____    |                    | _____ |

**Check appropriate line above:** For applicants or applicant's parent company/owner that currently own the building/land for the project location, attach a copy of the title/deed. For applicants or applicant's parent company/owner that currently lease the building/land for the project location, attach a copy of the fully executed lease agreement. For projects where the location of the project has not been secured, attach a fully executed document including Option to Purchase Agreement, Option to Lease Agreement, or other appropriate documentation. Option to Purchase Agreements **must include** anticipated purchase price. Lease/Option to Lease Agreements **must include** the actual/anticipated term of the agreement **and** actual/anticipated lease expense. The legal interests described herein **must be valid** on the date of the Agency's consideration of the certificate of need application.

**6B. Attach a copy of the site's plot plan, floor plan, and if applicable, public transportation route to and from the site on an 8 1/2" x 11" sheet of white paper, single or double-sided. DO NOT SUBMIT BLUEPRINTS.** Simple line drawings should be submitted and need not be drawn to scale.

- 1) Plot Plan **must include**:
  - a. Size of site (*in acres*);
  - b. Location of structure on the site;
  - c. Location of the proposed construction/renovation; and
  - d. Names of streets, roads or highway that cross or border the site.
- 2) Attach a floor plan drawing for the facility which includes legible labeling of patient care rooms (noting private or semi-private), ancillary areas, equipment areas, etc. On an 8 ½ by 11 sheet of paper or as many as necessary to illustrate the floor plan.
- 3) Describe the relationship of the site to public transportation routes, if any, and to any highway or major road developments in the area. Describe the accessibility of the proposed site to patients/clients.

**RESPONSE:**

**Attachment Section A-6A, 6B-1 a-d, 6B-2, 6B-3.**

*See Attachments A-6A, 6B-1 a-d, 6B-2, 6B-3.*

**RESPONSE:** *The Project site has excellent accessibility for both the patients and the ESCK group of physicians associated with the proposed ASTC. The location on Dannaher Drive is less than 5 minutes from Interstate-75 Exit #112-Emory Road (Hwy 131) Powell TN. The proximity to Interstate 75 and Hwy 131 enhances the access to major communities in the seven other counties surrounding Knox County which are included in the Applicant's Service Area. The Schedule below indicates the proximity of the ASTC site to the practice locations associated with the Project.*

<b>PROXIMITY OF PROJECT ASTC (DANNAHER DR-POWELL, TN) TO ESCK GROUP OPHTHALMIC MEDICAL PRACTICES</b>			<b>Distance -</b>	<b>Drive Time-</b>
<b>Practice &amp; Location</b>	<b>City (TN)</b>	<b>County (TN)</b>	<b>Miles</b>	<b>Minutes</b>
<b>Center for Sight, PC 7800 Conner Road</b>	<b>Powell</b>	<b>Knox</b>	<b>0.2</b>	<b>1</b>
<b>East Tennessee Eye Surgeons, PC 7800 Conner Road</b>	<b>Powell</b>	<b>Knox</b>	<b>0.2</b>	<b>1</b>
<b>Steven L. Sterling, MD, PC 2607 Kingston Pike-Ste #182</b>	<b>Knoxville</b>	<b>Knox</b>	<b>10.3</b>	<b>14</b>
<b>Eye Care Centers, PLLC dba Tennessee Eye Care 6354 Lonas Spring Drive</b>	<b>Knoxville</b>	<b>Knox</b>	<b>11.1</b>	<b>18</b>

**Source of Information: Google Maps, October 2016**



**7. Type of Institution (Check as appropriate--more than one response may apply)**

- |   |                                       |
|---|---------------------------------------|
| A. Hospital (Specify) _____               | H Nursing Home _____                  |
| B. Ambulatory Surgical Treatment _____    | I. Outpatient Diagnostic Center _____ |
| Center (ASTC), Multi-Specialty _____      | J. Rehabilitation Facility _____      |
| C. ASTC, Single Specialty <u>X</u> _____  | K. Residential Hospice _____          |
| D. Home Health Agency _____               | L. Nonresidential Substitution- _____ |
| E. Hospice _____                          | Based Treatment Center for _____      |
| F. Mental Health Hospital _____           | Opiate Addiction _____                |
| G. Intellectual Disability _____          | M. Other (Specify) _____              |
| Institutional Habilitation Facility _____ |                                       |
| ICF/IID _____                             |                                       |

Check appropriate lines(s).

**8. Purpose of Review (Check appropriate lines(s) – more than one response may apply)**

- |   |                                    |
|---|------------------------------------|
| A. New Institution <u>X</u> _____       | F. Change in Bed Complement _____  |
| B. Modifying an ASTC with _____         | [Please note the type of change    |
| limitation still required per CON _____ | by underlining the appropriate     |
| C. Addition of MRI Unit _____           | response: Increase, Decrease,      |
| D. Pediatric MRI _____                  | Designation, Distribution,         |
| E. Initiation of Health Care _____      | Conversion, Relocation]            |
| Service as defined in T.C.A. _____      | G. Satellite Emergency Dept. _____ |
| \$68-11-1607(4) _____                   | H. Change of Location _____        |
| (Specify) _____                         | I. Other (Specify) _____           |

**9. Medicaid/TennCare, Medicare Participation**

MCO Contracts [Check all that apply] \*\*\*\*To be applied for by Applicant

X AmeriGroup X United Healthcare Community Plan X BlueCare X TennCare Select

Medicare Provider Number To be applied for by Applicant

Medicaid Provider Number To be applied for by Applicant

Certification Type Ambulatory Surgery Center Treatment Center-Single Specialty

If a new facility, will certification be sought for Medicare and/or Medicaid/TennCare?

Medicare X Yes No N/A Medicaid/TennCare X Yes No N/A

10. **Bed Complement Data**

A. Please indicate current and proposed distribution and certification of facility beds.

**RESPONSE:** N/A

	<u>Current Licensed</u>	<u>Beds Staffed</u>	<u>Beds Proposed</u>	<u>*Beds Approved</u>	<u>**Beds Exempted</u>	<u>TOTAL Beds at Completion</u>
1) Medical						
2) Surgical						
3) ICU/CCU						
4) Obstetrical						
5) NICU						
6) Pediatric						
7) Adult Psychiatric						
8) Geriatric Psychiatric						
9) Child/Adolescent Psychiatric						
10) Rehabilitation						
11) Adult Chemical Dependency						
12) Child/Adolescent Chemical Dependency						
13) Long-Term Care Hospital						
14) Swing Beds						
15) Nursing Home – SNF (Medicare only)						
16) Nursing Home – NF (Medicaid only)						
17) Nursing Home – SNF/NF (dually certified Medicare/Medicaid)						
18) Nursing Home – Licensed (non-certified)						
19) ICF/IID						
20) Residential Hospice						
<b>TOTAL</b>						

\*Beds approved but not yet in service

\*\*Beds exempted under 10% per 3 year provision

B. Describe the reasons for change in bed allocations and describe the impact the bed change will have on the applicant facility's existing services. Attachment Section A-10. **RESPONSE:** N/A

C. Please identify all the applicant's outstanding Certificate of Need projects that have a licensed bed change component. If applicable, complete chart below. **RESPONSE:** N/A

<u>CON Number(s)</u>	<u>CON Expiration Date</u>	<u>Total Licensed Beds Approved</u>

**11. Home Health Care Organizations – Home Health Agency, Hospice Agency (excluding Residential Hospice), identify the following by checking all that apply: RESPONSE: N/A**

	Existing Licensed County	Parent Office County	Proposed Licensed County		Existing Licensed County	Parent Office County	Proposed Licensed County
Anderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Lauderdale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bedford	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Lawrence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Benton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Lewis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bledsoe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Lincoln	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Blount	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Loudon	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bradley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	McMinn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Campbell	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	McNairy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cannon	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Macon	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carroll	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Madison	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Marion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cheatham	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Marshall	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chester	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Maury	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Claiborne	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Meigs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clay	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Monroe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cocke	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Montgomery	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Coffee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Moore	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Crockett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Morgan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cumberland	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Obion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Davidson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Overton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decatur	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Perry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DeKalb	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Pickett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dickson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Polk	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dyer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Putnam	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fayette	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rhea	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fentress	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Roane	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Franklin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Robertson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gibson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rutherford	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Giles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Scott	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Grainger	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sequatchie	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Greene	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sevier	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Grundy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Shelby	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hamblen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Smith	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hamilton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Stewart	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hancock	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sullivan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hardeman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sumner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hardin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Tipton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hawkins	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Trousdale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Haywood	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unicoi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Union	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Van Buren	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hickman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Warren	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Houston	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Washington	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Humphreys	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wayne	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jackson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Weakley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jefferson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	White	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Williamson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Knox	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lake	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				

## 12. Square Footage and Cost Per Square Footage Chart

Unit/Department	Existing Location	Existing SF	Temporary Location	Proposed Final Location	Proposed Final Square Footage		
					Renovated	New	Total
Eye Surgery Center of Knoxville- ASTC (SS)	N/A	-0-		Dannaher Dr.- Powell, TN		4,200	4,200
Unit/Department GSF Sub-Total						4,200	4,200
Other GSF Total							
Total GSF						4,200	4,200
*Total Cost						\$735,000.00	\$735,000.00
**Cost Per Square Foot						\$175.00	\$175.00
<b>**Note- Insufficient Data-Not available for ASTCs-2013 to 2015 in Applicant Toolbox.</b>  Cost per Square Foot Is Within Which Range (For quartile ranges, please refer to the Applicant’s Toolbox on <a href="http://www.tn.gov/hsda">www.tn.gov/hsda</a> )					<input type="checkbox"/> Below 1 <sup>st</sup> Quartile	<input type="checkbox"/> Below 1 <sup>st</sup> Quartile	<input type="checkbox"/> Below 1 <sup>st</sup> Quartile
					<input type="checkbox"/> Between 1 <sup>st</sup> and 2 <sup>nd</sup> Quartile	<input type="checkbox"/> Between 1 <sup>st</sup> and 2 <sup>nd</sup> Quartile	<input type="checkbox"/> Between 1 <sup>st</sup> and 2 <sup>nd</sup> Quartile
					<input type="checkbox"/> Between 2 <sup>nd</sup> and 3 <sup>rd</sup> Quartile	<input type="checkbox"/> Between 2 <sup>nd</sup> and 3 <sup>rd</sup> Quartile	<input type="checkbox"/> Between 2 <sup>nd</sup> and 3 <sup>rd</sup> Quartile
					<input type="checkbox"/> Above 3 <sup>rd</sup> Quartile	<input type="checkbox"/> Above 3 <sup>rd</sup> Quartile	<input type="checkbox"/> Above 3 <sup>rd</sup> Quartile

\* The Total Construction Cost should equal the Construction Cost reported on line A5 of the Project Cost Chart.

\*\* Cost per Square Foot is the construction cost divided by the square feet. Please do not include contingency costs.

### 13. MRI, PET, and/or Linear Accelerator

1. Describe the acquisition of any Magnetic Resonance Imaging (MRI) scanner that is adding a MRI scanner in counties with population less than 250,000 or initiation of pediatric MRI in counties with population greater than 250,000 and/or
2. Describe the acquisition of any Positron Emission Tomographer (PET) or Linear Accelerator if initiating the service by responding to the following:

A. Complete the chart below for acquired equipment. **RESPONSE:** *N/A*

<input type="checkbox"/> Linear Accelerator	Mev _____ Types:	<input type="checkbox"/> SRS <input type="checkbox"/> IMRT <input type="checkbox"/> IGRT <input type="checkbox"/> Other _____
	Total Cost*: _____	<input type="checkbox"/> By Purchase
<input type="checkbox"/> New	<input type="checkbox"/> Refurbished	<input type="checkbox"/> By Lease Expected Useful Life (yrs) _____
		<input type="checkbox"/> If not new, how old? (yrs) _____
<input type="checkbox"/> MRI	Tesla: _____ Magnet:	<input type="checkbox"/> Breast <input type="checkbox"/> Extremity
		<input type="checkbox"/> Open <input type="checkbox"/> Short Bore <input type="checkbox"/> Other _____
	Total Cost*: _____	<input type="checkbox"/> By Purchase
<input type="checkbox"/> New	<input type="checkbox"/> Refurbished	<input type="checkbox"/> By Lease Expected Useful Life (yrs) _____
		<input type="checkbox"/> If not new, how old? (yrs) _____
<input type="checkbox"/> PET	<input type="checkbox"/> PET only <input type="checkbox"/> PET/CT <input type="checkbox"/> PET/MRI	
	Total Cost*: _____	<input type="checkbox"/> By Purchase
<input type="checkbox"/> New	<input type="checkbox"/> Refurbished	<input type="checkbox"/> By Lease Expected Useful Life (yrs) _____
		<input type="checkbox"/> If not new, how old? (yrs) _____

\* As defined by Agency Rule 0720-9-.01(13)

- B. In the case of equipment purchase, include a quote and/or proposal from an equipment vendor. In the case of equipment lease, provide a draft lease or contract that at least includes the term of the lease and the anticipated lease payments along with the fair market value of the equipment.

**RESPONSE:** *N/A*

- C. Compare lease cost of the equipment to its fair market value. Note: Per Agency Rule, the higher cost must be identified in the project cost chart. **RESPONSE:** *N/A*

D. Schedule of Operations: **RESPONSE:** *N/A*

Location	Days of Operation (Sunday through Saturday)	Hours of Operation (example: 8 am – 3 pm)
Fixed Site (Applicant)	_____	_____
Mobile Locations (Applicant)	_____	_____
(Name of Other Location)	_____	_____
(Name of Other Location)	_____	_____

- E. Identify the clinical applications to be provided that apply to the project. **RESPONSE:**

N/A

- F. If the equipment has been approved by the FDA within the last five years provide documentation of the same. **RESPONSE:** N/A

## **SECTION B: GENERAL CRITERIA FOR CERTIFICATE OF NEED**

In accordance with T.C.A. § 68-11-1609(b), "no Certificate of Need shall be granted unless the action proposed in the application for such Certificate is necessary to provide needed health care in the area to be served, can be economically accomplished and maintained, will provide health care that meets appropriate quality standards, and will contribute to the orderly development of health care." Further standards for guidance are provided in the State Health Plan developed pursuant to T.C.A. § 68-11-1625.

The following questions are listed according to the four criteria: (1) Need, (2) Economic Feasibility, (3) Applicable Quality Standards, and (4) Contribution to the Orderly Development of Health Care. Please respond to each question and provide underlying assumptions, data sources, and methodologies when appropriate. Please type each question and its response on an 8 1/2" x 11" white paper, single-sided or double sided. All exhibits and tables must be attached to the end of the application in correct sequence identifying the question(s) to which they refer, unless specified otherwise. ***If a question does not apply to your project, indicate "Not Applicable (NA)."***

### **QUESTIONS**

#### **NEED**

1. Provide a response to each criterion and standard in Certificate of Need Categories in the State Health Plan that are applicable to the proposed project. Criteria and standards can be obtained from the Tennessee Health Services and Development Agency or found on the Agency's website at <http://www.tn.gov/hsda/article/hsda-criteria-and-standards>.

***Standards & Criteria-TN HSDA for CON Determination-ASTC:***

**Assumptions in Determination of Need-** The need for an ambulatory surgical treatment center shall be based upon the following assumptions:

1. Operating Rooms-
  - a. An operating room is available 250 days per year, 8 hours per day.
  - b. The estimated average time per Case in an Operating Room is 65 minutes.
  - c. The average time for clean-up and preparation between Operating Room Cases is 30 minutes.
  - d. The optimum utilization of a dedicated, outpatient, general-purpose Operating Room is 70% of full capacity.  $70\% \times 250 \text{ days/year} \times 8 \text{ hours/day} \div 95 \text{ minutes} = 884 \text{ Cases per year}$ .

**RESPONSE:** *The proposed ophthalmic ASTC will be in operation 5 days per week, 8 hours per day, excluding national holidays which meets the criteria. The two operating rooms will be staffed*

for four days per week initially, which is more than adequate to accommodate the projected surgical caseload in Years 1 & 2. The estimated average time per Case in Operating Room for eye cases is well below 65 minutes. Based on industry average for ophthalmic surgery centers (Beckers ASC Review-Oct. 2013) the median case time for cataract surgery is 14 minutes. Cataract surgical cases are estimated to be 98.6% of the total procedures to be performed in the two dedicated operating rooms within the ASTC. Glaucoma and other eye surgical cases are estimated to have an average surgical case time of 30 minutes. The average clean-up and preparation for all eye cases in the operating rooms is estimated at 13 minutes (Median time reported in Current Ophthalmology-2015) well below the average time of 30 minutes set forth in the criteria. The Applicant projects 3,200 cases in Year 1 (1,600 cases/OR) and 3,523 cases in Year 2 (1,761.5 cases/OR) to be performed in the dedicated outpatient operating rooms which is well over 100% capacity and exceeds the optimum utilization of 884 Cases per year.

## 2. Procedure Rooms-

- a. A procedure room is available 250 days per year, 8 hours per day.
- b. The estimated average time per outpatient Case in a procedure room is 30 minutes.
- c. The average time for clean-up and preparation between Procedure Room Cases is 15 minutes.
- d. The optimum utilization of a dedicated, outpatient, general-purpose outpatient Procedure Room is 70% of full capacity.  $70\% \times 250 \text{ days/year} \times 8 \text{ hours/day} \div 45 \text{ minutes} = 1867 \text{ Cases per year}$ .

**RESPONSE:** As stated previously, the proposed ophthalmic ASTC will be in operation 5 days per week, 8 hours per day, excluding national holidays which meets the criteria. The one dedicated procedure room will be available and staffed with appropriate nursing personnel five days per week at 8 hours per day to accommodate projected eye laser procedures in Years 1 & 2. Yag laser procedures (required for certain patients post Cataract surgery) are estimated to account for over 94% of the total eye laser procedures to be performed in the dedicated procedure room within the ASTC. Other laser procedures for treatment of retina diseases (retina lasers) and glaucoma (SLT-Selective Laser Trabeculoplasty) will also be performed within the ASTC. The estimated average time per outpatient Case for all of these laser procedures is 5 minutes and estimated average time for clean-up and preparation between Procedure Cases is 10 minutes, both below the stated criteria. The Applicant projects 814 laser eye cases in Year 1 and 893 cases in Year 2 to be performed in the dedicated outpatient procedure room. While this project's projected utilization is below the stated criteria above for a dedicated procedure room, these levels exceed procedure room utilization in the four existing ASTCs specializing in eye care within the service area-ave. 743 cases per procedure room per year & 27.86% average utilization (based on JAR Reports-2015 and State of TN-HSDA Guidelines for Growth).

## Determination of Need-

**1. Need.** The minimum numbers of 884 Cases per Operating Room and 1867 Cases per Procedure Room are to be considered as baseline numbers for purposes of determining Need. An applicant should demonstrate the ability to perform a minimum of 884 Cases per Operating Room and/or 1867 Cases per Procedure Room per year, except that an applicant may provide information on its projected case types and its assumptions of estimated average time and clean up and preparation time per Case if this information differs significantly from the above-stated assumptions. It is

recognized that an ASTC may provide a variety of services/Cases and that as a result the estimated average time and clean up and preparation time for such services/Cases may not meet the minimum numbers set forth herein. It is also recognized that an applicant applying for an ASTC Operating Room(s) may apply for a Procedure Room, although the anticipated utilization of that Procedure Room may not meet the base guidelines contained here. Specific reasoning and explanation for the inclusion in a CON application of such a Procedure Room must be provided. An applicant that desires to limit its Cases to a specific type or types should apply for a Specialty ASTC.

**RESPONSE:** *The Applicant will limit its cases in the proposed ASTC to ophthalmology and the project will include two operating rooms and a procedure room for laser procedures. Single-Specialty ophthalmic ASTC laser procedure rooms traditionally have lower utilization than general-purpose outpatient Procedure Rooms but are very efficient. These eye laser procedures are often the most cost effective treatment for certain vision modalities. These ophthalmic laser procedures do not generally require anesthesia, require limited staffing, and for these reasons are better suited for the procedure room and are not typically performed in operating rooms. These eye laser procedures are critical to providing comprehensive quality eye care and surgery to certain patients with vision loss and/or vision impairment. The procedure room in the ophthalmic ASTC is the ideal setting for the patient and physician in terms of cost-effectiveness, accessibility to technology, convenience and efficiency.*

2. **Need and Economic Efficiencies.** An applicant must estimate the projected surgical hours to be utilized per year for two years based on the types of surgeries to be performed, including the preparation time between surgeries. Detailed support for estimates must be provided.

**RESPONSE:** *See the Case Utilization & Time Requirements Schedule for the proposed ESCK project below.*



**EYE SURGERY CENTER OF KNOXVILLE (ESCK)  
CASE UTILIZATION & TIME REQUIREMENTS**

<i>Type of Procedure:</i>	PROJECTED YR 1 Cases	AVE SX CASE TIME Min./Cs	AVE CLEAN-UP & PREP TIME Min./Cs	TOTAL Min./Cs	YR 1 MINUTES	YR 1 HOURS	Utilization % of Capacity*
Cataract Surgery	3,156	14	13	27	85,212	1,420.2	
Glaucoma Surgery	12	30	13	43	516	8.6	
Other Eye Care Surgery	32	30	13	43	1,376	22.9	
<b>OR Total</b>	<b>3,200</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>87,104</b>	<b>1,451.7</b>	<b>45.37%</b>
Yag Laser Procedures	767	5	10	15	11,505	191.8	
Retina Laser Procedures	28	5	10	15	420	7.0	
SLT Laser Procedures	19	5	10	15	285	4.8	
<b>PR Total</b>	<b>814</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>12,210</b>	<b>203.5</b>	<b>10.18%</b>
<b>Total Facility</b>	<b>4,014</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>186,418</b>	<b>1,655.2</b>	

<i>Type of Procedure:</i>	PROJECTED YR 2 Cases	AVE SX CASE TIME Min./Cs	AVE CLEAN-UP & PREP TIME Min./Cs	TOTAL Min./Cs	YR 2 MINUTES	YR 2 HOURS	Utilization % of Capacity*
Cataract Surgery	3,473	14	13	27	93,771	1,562.9	
Glaucoma Surgery	13	30	13	43	559	9.3	
Other Eye Care Surgery	37	30	13	43	1,591	26.5	
<b>OR Total</b>	<b>3,523</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>95,921</b>	<b>1,598.7</b>	<b>49.96%</b>
Yag Laser Procedures	843	5	10	15	12,645	210.8	
Retina Laser Procedures	29	5	10	15	435	7.3	
SLT Laser Procedures	21	5	10	15	315	5.3	
<b>PR Total</b>	<b>893</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>13,395</b>	<b>223.3</b>	<b>11.16%</b>
<b>Total Facility</b>	<b>4,416</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>205,237</b>	<b>1,821.9</b>	

\*Utilization Capacity of Two Operating Rooms based on 2 ORs @ 4 days/wk x 8 hrs x 50 wks =3,200 hrs staffed/YR

\*Utilization Capacity of One Procedure Room (Laser) based on 1 PR @ 5 days/wk x 8 hrs x 50 wks=2,000 hrs staffed/YR

3. **Need; Economic Efficiencies; Access.** To determine current utilization and need, an applicant should take into account both the availability and utilization of either: a) all existing outpatient Operating Rooms and Procedure Rooms in a Service Area, including physician office based surgery rooms (when those data are officially reported and available) OR b) all existing comparable outpatient Operating Rooms and Procedure Rooms based on the type of Cases to be performed. Additionally,

applications should provide similar information on the availability of nearby out-of-state existing outpatient Operating Rooms and Procedure Rooms, if that data are available, and provide the source of that data. Unstaffed dedicated outpatient Operating Rooms and unstaffed dedicated outpatient Procedure Rooms are considered available for ambulatory surgery and are to be included in the inventory and in the measure of capacity.

**RESPONSE:** *There are five existing ASTCs within the Applicant's eight county Service Area which currently provide eye services. There are no ASTCs currently licensed in five of the counties within the Service Area-Campbell, Grainger, Jefferson, Sevier and Union and no ASTC currently licensed in Blount County, TN (also within Service Area) that provides eye services. Three of these existing facilities licensed as single specialty ophthalmic ASTCs are located in Knox County, TN, and experience high utilization. The other ASTC located in Knox County, TN is licensed as multi-specialty and provides eye services but has no procedure room or equipment for eye laser procedures. The ASTC located in Anderson County is licensed as multi-specialty but performs predominantly eye surgeries and eye laser procedures and has experienced good utilization but its location is inadequate for servicing the needs of the Applicant's patients. Unstaffed dedicated outpatient Operating Rooms and Procedure Rooms were included in the inventory and measure of capacity. Over the three-year reporting period from 2013 to 2015 (per Joint Annual Reports-TN Dept. of Health-Div. of Planning and Assessment (PPA)-Health Facilities Statistics Unit), the available ASTC operating rooms/procedure rooms capacity providing eye services within the Service Area decreased from 31 to 18. For the existing active ASTCs providing eye services within the Service Area the aggregate totals for 2015 were: OR (Operating Room) Utilization as a % of HSDA State Guidelines-141.65% - ave.1789 cases/OR & PR (Procedure Room)- 27.86%-ave.743 cases/PR. See Schedule of Historical Capacity & Utilization of ASTCs with Eye Service in 8 County Service Area included in this Section B. Need-Question 5.*

4. **Need and Economic Efficiencies.** An applicant must document the potential impact that the proposed new ASTC would have upon the existing service providers and their referral patterns.
  1. A CON application to establish an ASTC or to expand existing services of an ASTC should not be approved unless the existing ambulatory surgical services that provide comparable services regarding the types of Cases performed, if those services are known and relevant, within the applicant's proposed Service Area or within the applicant's facility are demonstrated to be currently utilized at 70% or above.
  2. The Division recognizes that estimated or average cleanup/preparation times and Case times may vary significantly by specialty and type of Case.
  3. The Department of Health is currently in the rule-making process necessary to implement the statute requiring the collection of office-based surgery data (Public Chapter 373, 2007). The Division recognizes that the Department of Health does not have sufficient data available on hospital ambulatory/outpatient surgery rooms at this time to include them in the determination of need; however, the Division plans to work

with stakeholders towards this goal

**RESPONSE:** *The potential impact of the proposed new ASTC would be minimal as reflected in the Schedule below. There are two facilities affected by the proposed new ASTC. First, Physicians Surgery Center of Knoxville is a licensed multi-specialty ASTC in Knox County and does not have a procedure room or equipment for providing eye laser procedures. This facility is not currently in network with certain major insurance plans (which restricts accessibility of patients and provider utilization of the facility). Eye cases accounted for only 11% of the total surgical cases performed within this Facility in 2015. Knoxville Eye Surgery Center is the other facility affected and the impact from the loss of ESCK group cases will be marginal for this Facility. The single specialty ophthalmic ASTC case load for Knoxville Eye Surgery Center as reported in 2015 significantly exceeds the utilization State Guidelines for Growth for Operating Rooms (245.37% Utilization without ESCK cases). The Combined Facilities without ESCK cases reflects a 145.06% Utilization or 1, 832 cs/OR well above the 884 cs/OR - State Guidelines. Hospital outpatient surgery rooms were not included in this review due to insufficient data available and since applicant's proposed ASTC will be limited to ophthalmic surgical procedures and should not have an adverse impact on these facilities. No cases are currently being performed in the other existing ASTCs providing eye services within the Service Area. Based on this information the Applicant's proposed ASTC would not adversely impact the existing service providers.*

**EYE SURGERY CENTER OF KNOXVILLE (ESCK)  
IMPACT ON EXISTING ASTCS IN SERVICE AREA**

	Total-OR/PR	Utilization per JAR Reports-2015			ESCK Utiliz.-2015		Without ESCK Cases	
ASTC		Total-OR+PR	OR Cases	PR Cases	OR Cases	PR Cases	OR Cases	PR Cases
Physicians Surgery Center of Knoxville								
Multispecialty-ASTC	5 / 0 = 5							
Ophthalmology		497	497	-	379		118	-
Total Outpatient Surgeries		4,472	4,472	-	379		4,093	-
Utilization % based on State Guidelines			70.82%	N/A			64.81%	N/A
Knoxville Eye Surgery Center								
Single Specialty-ASTC Ophthalmology	4 / 1 = 5							
Ophthalmology		14,203	13,307	896	911	250	12,396	646
Total Outpatient Surgeries		14,203	13,307	896	911	250	12,396	646
Utilization % based on State Guidelines			263.40%	33.60%			245.37%	24.22%
Total Combined Facilities								
	9 / 1 = 10	18,675	17,779	896	1,290	250	16,489	646
			156.41%	33.60%			145.06%	24.22%

\*State Guidelines-TN HSDA in State Health Plan-1,263 CS/OR (70% min-884 CS/OR)

\*State Guidelines-TN HSDA in State Health Plan-2,667 CS/PR (70% min-1,867 CS/PR)

Source of Information: Joint Annual Reports (JAR)-TN Dept of Health-Div. of Planning And Assessment(PPA)-Health Facilities Statistics Unit & Clinical data/information from ESCK Group.

- Need and Economic Efficiencies.** An application for a Specialty ASTC should present its projections for the total number of cases based on its own calculations for the projected length of time per type of case, and shall provide any local, regional, or national data in support of its methodology. An applicant for a Specialty ASTC should provide its own definitions of the surgeries and/or procedures that will be performed and whether the Surgical Cases will be performed in an Operating Room or a Procedure Room. An applicant for a Specialty ASTC must document the potential impact that the proposed new ASTC would have upon the existing service providers and their referral patterns. A CON proposal to establish a Specialty ASTC or to expand existing services of a Specialty ASTC shall not be approved unless the existing ambulatory surgical services that provide comparable services regarding the types of Cases performed within the applicant's proposed Service Area or within the applicant's facility are demonstrated to be currently utilized at 70% or above. An applicant that is granted a CON for a Specialty ASTC shall have the specialty or limitation placed on the CON.

**RESPONSE:** *The Applicant is applying for CON approval and licensure as a Specialty ASTC in Ophthalmology. The information and documentation has been included in other sections within the application. The proposed Specialty ASTC if approved will have a positive impact on the Service Area as the existing specialty ASTCs providing eye services are highly utilized and cannot meet the expected growth and needs of the aging population with age-related eye diseases in the Service Area.*

*See Schedule of Historical Capacity & Utilization of ASTCs with Eye Service in 8 County Service Area included in this Section B.Need-Question 5. & Schedule of Impact on Existing ASTCs in Service Area in previous Section 4. Need and Economic Efficiencies, and Schedule-Case Utilization & Time Requirements included in Section 2. Need and Economic Efficiencies*

**Other Standards and Criteria-**

6. **Access to ASTCs.** The majority of the population in a Service Area should reside within 60 minutes average driving time to the facility.

**RESPONSE:** *The majority of the population in the Service Area in 2016 resides in Knox County, TN-466,345-Total Service Area 919,363 (50.72%). The proposed facility site is located in Powell, TN-Knox County and is within the 60 minutes average driving time for all areas within Knox County. In addition, the proposed facility site is located within the 60 minutes average driving time of every major community within the Service Area as set forth in the Schedule below:*

PROXIMITY OF PROJECT ASTC (DANNAHER DR-POWELL, TN) KNOX COUNTY TO SERVICE AREA			Distance -	Drive Time-
Location-City	County	State	Miles	Minutes
Clinton	Anderson	TN	13.5	23
Oak Ridge	Anderson	TN	19.7	33
Alcoa	Blount	TN	22.3	31
Maryville	Blount	TN	25.1	34
LaFollette	Campbell	TN	31.4	37
Rutledge	Grainger	TN	33.5	51
Jefferson City	Jefferson	TN	35.7	44
Knoxville (Downtown)	Knox	TN	9.1	13
Sevierville	Sevier	TN	36.0	44
Maynardville	Union	TN	20.4	32

Source of Information: Google Maps, October 2016

7. **Access to ASTCs.** An applicant should provide information regarding the relationship of an existing or proposed ASTC site to public transportation routes if that information is available.

**RESPONSE:** *Public transportation services are available to Knox County residents through Knox County CAC Transit and TennCare Transportation will provide transportation for eligible enrollees to the proposed ASTC site.*

8. **Access to ASTCs.** An application to establish an ambulatory surgical treatment center or to expand existing services of an ambulatory surgical treatment center must project the origin of potential patients by percentage and county of residence and, if such data are readily available, by zip code, and must note where they are currently being served. Demographics of the Service Area should be included, including the anticipated provision of services to out-of-state patients, as well as the identity of other service providers both in and out of state and the source of out-of-state data. Applicants shall document all other provider alternatives available in the Service Area.

All assumptions, including the specific methodology by which utilization is projected, must be clearly stated.

**RESPONSE:** *The Applicant has provided and addressed the requested information and documentation including assumptions in other areas and schedules within the application.*

9. **Access and Economic Efficiencies.** An application to establish an ambulatory surgical treatment center or to expand existing services of an ambulatory surgical treatment center must project patient utilization for each of the first eight quarters following completion of the project. All assumptions, including the specific methodology by which utilization is projected, must be clearly stated.

**RESPONSE:** *See Table below. Projected patient utilization is based on actual procedures performed by ESCCK group for 2015 with increase of 10% cumulative growth (from 2015 to 2018) in Year 1-2018 and 10% annual growth in Year 2-2019. This is conservative based on aging population trends of the Service Area in excess of 15.8% in the 65+ age group and population growth from 2016 to 2020.*

# PROCEDURES PROJECTED:	QTR 1	QTR 2	QTR 3	QTR 4	TOTAL	QTR 1	QTR 2	QTR 3	QTR 4	TOTAL
	YEAR 1	YEAR 1	YEAR 1	YEAR 1		YEAR 2	YEAR 2	YEAR 2	YEAR 2	
Cataract Surgery	789	789	789	789	3156	868	868	868	869	3473
Glaucoma Surgery	3	3	3	3	12	3	3	3	4	13
Other Eye Care Sx Procedures	8	8	8	8	32	9	9	9	10	37
Yag Laser Procedures	192	191	192	192	767	211	211	211	210	843
Retina Laser Procedures	7	7	7	7	28	7	7	7	8	29
SLT Laser Procedures	4	5	5	5	19	6	5	5	5	21
<b>Total</b>	<b>1,003</b>	<b>1,003</b>	<b>1,004</b>	<b>1,004</b>	<b>4014</b>	<b>1,104</b>	<b>1,103</b>	<b>1,103</b>	<b>1,106</b>	<b>4416</b>

10. **Patient Safety and Quality of Care; Health Care Workforce.**

a. An applicant should be or agree to become accredited by any accrediting organization approved by the Centers for Medicare and Medicaid Services, such as the Joint Commission, the Accreditation Association of Ambulatory Health Care, the American Association for Accreditation of Ambulatory Surgical Facilities, or other nationally recognized accrediting organization.

b. An applicant should estimate the number of physicians by specialty that are expected to utilize the facility and the criteria to be used by the facility in extending surgical and anesthesia privileges to medical personnel. An applicant should provide documentation on the availability of appropriate and qualified staff that will provide ancillary support services, whether on- or off-site.

**RESPONSE:** *The Applicant plans to become accredited through the Accreditation Association of Ambulatory Health Care (AAAHC). The Applicant will initially credential and extend surgical privileges to the six physician owners of the Facility (the ESCK group) who will perform the ophthalmic surgery and eye laser procedures. The ESCK group will consider offering surgical privileges for utilization of the ASTC to other qualified ophthalmic surgeons once the appropriate physician credentialing and admission policies have been established by the organization. CRNA staff has been identified and the Applicant has provided a Letter from the CRNA in the Attachment Section-Contribution to the Orderly Development of Healthcare. There are several accredited nursing programs including UT-Knoxville and other schools within the Knoxville, TN area that can provide an excellent source for recruitment of Registered Nurses and other qualified staff.*

**11. Access to ASTCs.** In light of Rule 0720-11.01, which lists the factors concerning need on which an application may be evaluated, and Principle No. 2 in the State Health Plan, "Every citizen should have reasonable access to health care," the HSDA may decide to give special consideration to an applicant:

- a. Who is offering the service in a medically underserved area as designated by the United States Health Resources and Services Administration;
- b. Who is a "safety net hospital" or a "children's hospital" as defined by the Bureau of TennCare Essential Access Hospital payment program;
- c. Who provides a written commitment of intention to contract with at least one TennCare MCO and, if providing adult services, to participate in the Medicare program; or d. Who is proposing to use the ASTC for patients that typically require longer preparation and scanning times. The applicant shall provide in its application information supporting the additional time required per Case and the impact on the need standard. The Division recognizes that not all ASTCs can be CMS certified or accredited.

**RESPONSE:** *Not necessary. Applicant meets utilization criteria.*

2. Describe the relationship of this project to the applicant facility's long-range development plans, if any, and how it relates to related previously approved projects of the applicant.

**RESPONSE:** *Not Applicable (NA), Applicant is establishing a new facility and has no long-range development plans or previously approved projects.*

3. Identify the proposed service area and justify the reasonableness of that proposed area. Submit a county level map for the Tennessee portion of the service area using the map on the following page, clearly marked to reflect the service area as it relates to meeting the requirements for CON criteria and standards that may apply to the project. Please include a discussion of the inclusion of counties in the border states, if applicable. **Attachment Section B**  
**- Need-3.**



**RESPONSE:** *See Service Area Maps included in Attachment Section B-Need-3. The Service Area is justified in that over 86% of patients having surgical procedures performed by the ESCK group in 2015 originated from the eight counties in Tennessee-Anderson, Blount, Campbell, Grainger, Jefferson, Knox, Sevier & Union. No counties in border states are included in the proposed service area. The ASTC proposed site is ideally located in the North Knoxville area to service this market and provide comprehensive quality eye care to a growing and aging population.*

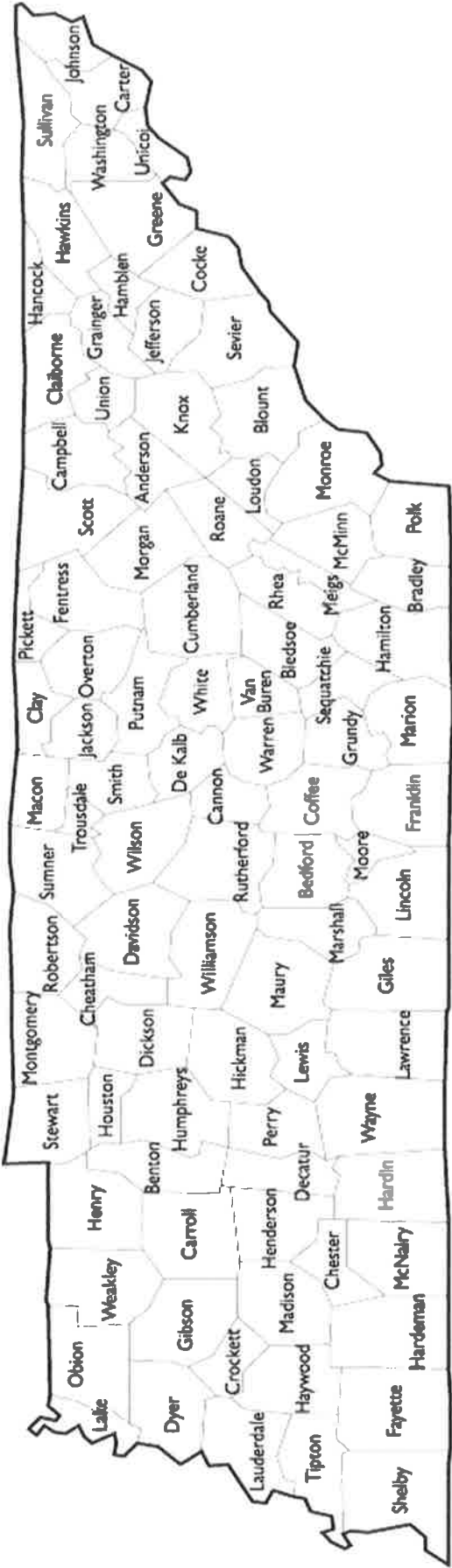
Please complete the following tables, if applicable: **RESPONSE:**

*See Schedule of Eight County Service Area Utilization Below. Historical Utilization reflects Procedures performed for year end 2015 by the six specialists of the ESCK group. Applicant anticipates and projects similar patient origin trends for the next several years-86.35%, in Service Area.*

<b>Service Area Counties</b>	<b>Historical Utilization- County Residents</b>	<b>% of total procedures</b>
<b>Anderson</b>	<b>183</b>	<b>5.02%</b>
<b>Blount</b>	<b>321</b>	<b>8.80%</b>
<b>Campbell</b>	<b>280</b>	<b>7.67%</b>
<b>Grainger</b>	<b>62</b>	<b>1.70%</b>
<b>Jefferson</b>	<b>93</b>	<b>2.55%</b>
<b>Knox</b>	<b>1,903</b>	<b>52.15%</b>
<b>Sevier</b>	<b>173</b>	<b>4.74%</b>
<b>Union</b>	<b>136</b>	<b>3.73%</b>
<b>Other &lt; 1.5%</b>	<b>498</b>	<b>13.65%</b>
<b>Total</b>	<b>3,649</b>	<b>100.00%</b>

<b>Service Area Counties</b>	<b>Projected Utilization- County Residents</b>	<b>% of total procedures</b>
<b>Anderson</b>	<b>201</b>	<b>5.02%</b>
<b>Blount</b>	<b>353</b>	<b>8.80%</b>
<b>Campbell</b>	<b>308</b>	<b>7.67%</b>
<b>Grainger</b>	<b>68</b>	<b>1.70%</b>
<b>Jefferson</b>	<b>102</b>	<b>2.55%</b>
<b>Knox</b>	<b>2,093</b>	<b>52.15%</b>
<b>Sevier</b>	<b>190</b>	<b>4.74%</b>
<b>Union</b>	<b>150</b>	<b>3.73%</b>
<b>Other &lt; 1.5%</b>	<b>548</b>	<b>13.65%</b>
<b>Total</b>	<b>4,014</b>	<b>100.00%</b>

County Level Map



4. A. 1) Describe the demographics of the population to be served by the proposal.

**RESPONSE:** *The Demographics of the Service Area is summarized in the Table below. The median age is 41.8 yrs which is older than the TN median age-38.7 yrs. The 65+ age group is expected to increase by 15.8% from 2016 to 2020 which will require more eye care treatment and cataract surgery for age related vision loss in the immediate future and the coming years. This trend is projected to continue beyond 2020. TennCare enrollees within the Service Area total 183,881 representing 11.8% of total TennCare enrollees per Bureau of TennCare Sept 2016 report.. The total statewide enrollment in TennCare at Sept 2016 is 1,551,984 which represents 22.78% of the state's population-6,812,005.*

- 2) Using current and projected population data from the Department of Health, the most recent enrollee data from the Bureau of TennCare, and demographic information from the US Census Bureau, complete the following table and include data for each county in your proposed service area.

Projected Population Data: <http://www.tn.gov/health/article/statistics-population>

TennCare Enrollment Data: <http://www.tn.gov/tenncare/topic/enrollment-data>

Census Bureau Fact Finder: <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>

Demographic Variable/Geographic Area	Department of Health/Health Statistics							Bureau of the Census				TennCare	
	Total Population-Current Year	Total Population-Projected Year	Total Population-% Change	*Target Population-Current Year	*Target Population-Project Year	*Target Population-% Change	Target Population Projected Year as % of Total	Median Age	Median Household Income	Person Below Poverty Level	Person Below Poverty Level as % of Total	TennCare Enrollees	TennCare Enrollees as % of Total
County A													
County B, etc.													
Service Area Total													
State of TN Total													

\* Target Population is population that project will primarily serve. For example, nursing home, home health agency, hospice agency projects typically primarily serve the Age 65+ population; projects for child and adolescent psychiatric services will serve the Population Ages 0-19. Projected Year is defined in select service-specific criteria and standards. If Projected Year is not defined, default should be four years from current year, e.g., if Current Year is 2016, then default Projected Year is 2020.

**RESPONSE:** See Demographic Table for Eye Surgery Center of Knoxville Service Area

## Demographic Table for Eye Surgery Center of Knoxville Service Area

Demographic Variable/ Geographic Area	Department of Health /Health Statistics*								Bureau of the Census**				TennCare***	
	Population Estimate 2016			Population Estimate 2020			% Increase		Median Age	Median Household Income	# Person Below Poverty Level	#Person Below Pov. Level as % of Total	TennCare Enrollees	TennCare Enrollees as % of Total
	Total	65+	%65+	Total	65+	%65+	65+	Total						
Anderson	77,667	15,608	20.1%	79,061	17,490	22.1%	12.1%	1.8%	43.7	44,199	13,281	17.1%	17,289	1.1%
Blount	133,236	26,259	19.7%	139,725	30,754	22.0%	17.1%	4.9%	42.7	46,518	19,186	14.4%	23,893	1.5%
Campbell	41,464	8,645	20.8%	41,787	9,698	23.2%	12.2%	0.8%	42.5	32,316	9,371	22.6%	13,847	0.9%
Grainger	23,890	4,951	20.7%	24,577	5,763	23.4%	16.4%	2.9%	43.0	34,566	5,065	21.2%	6,382	0.4%
Jefferson	55,714	11,400	20.5%	58,372	13,331	22.8%	16.9%	4.8%	41.8	41,426	9,249	16.6%	13,252	0.9%
Knox	466,345	70,360	15.1%	488,993	80,979	16.6%	15.1%	4.9%	37.2	47,543	71,351	15.3%	81,859	5.3%
Sevier	101,144	19,374	19.2%	108,468	23,251	21.4%	20.0%	7.2%	42.8	42,499	15,576	15.4%	21,864	1.4%
Union	19,903	3,562	17.9%	20,320	4,173	20.5%	17.2%	2.1%	40.7	36,009	4,518	22.7%	5,495	0.4%
Service Area Total	919,363	160,159	17.4%	961,303	185,439	19.3%	15.8%	4.6%	41.8	40,635	147,596	18.2%	183,881	11.8%
State of TN Total	6,812,005	1,091,516	16.0%	7,108,031	1,266,295	17.8%	16.0%	4.3%	38.7	44,621	1,212,537	17.8%	1,551,984	100.0%

\* 2015 Revised UTCBER Population Projection Series.

Source: The University of Tennessee Center for Business and Economic Research Population Projection Data Files, Reassembled by the Tennessee Department of Health, Division of Policy, Planning and Assessment.

Note: These data will not match the University of Tennessee Data exactly due to rounding.

\*\*Source: U.S. Census Bureau 2015 American Community Survey 1-Year Estimates & U.S. Census Bureau 2010-2014 American Community Survey 5-Year Estimates

\*\*\*Source: TennCare Enrollment Report for September 2016

- B. Describe the special needs of the service area population, including health disparities, the accessibility to consumers, particularly the elderly, women, racial and ethnic minorities, and low-income groups. Document how the business plans of the facility will take into consideration the special needs of the service area population.

**RESPONSE:** The 65+yrs age group is continuing to grow at a significant rate within the Service Area. Accordingly, there is a high prevalence of cataracts, age-related macular degeneration, glaucoma, and other eye diseases which create loss of vision in this age group requiring access to quality care and surgery in a cost effective environment. The proposed Facility can address these needs. Historically, the ESCK group physicians have treated patients from all racial, ethnic minorities, and low-income groups without discrimination and have provided a significant amount of indigent care which will continue with the proposed ASTC. The proposed ASTC will participate in all TennCare/ Medicaid programs and Medicare/Medicare Managed programs to address the special needs of these patients.

5. Describe the existing and approved but unimplemented services of similar healthcare providers in the service area. Include utilization and/or occupancy trends for each of the most recent three years of data available for this type of project. List each provider and its utilization and/or occupancy individually. Inpatient bed projects must include the following data: Admissions or discharges, patient days, average length of stay, and occupancy. Other projects should use the most appropriate measures, e.g., cases, procedures, visits, admissions, etc. This doesn't apply to projects that are solely relocating a service.

**RESPONSE:** *There are five existing ASTCs within the Applicant's eight county Service Area which currently provide eye services. There are no ASTCs currently licensed in five of the counties within the Service Area- Campbell, Grainger, Jefferson, Sevier and Union and no ASTC currently licensed in Blount County, TN (also within Service Area) that provides eye services. Three of these existing facilities licensed as single specialty ophthalmic ASTCs are located in Knox County, TN, and experience high utilization. The other ASTC located in Knox County, TN is licensed as multi-specialty and provides eye services but has no procedure room or equipment for eye laser procedures. The ASTC located in Anderson County is licensed as multi-specialty but performs predominantly eye surgeries and eye laser procedures and has experienced good utilization but its location is inadequate for servicing the needs of the Applicant's patients. Unstaffed dedicated outpatient Operating Rooms and Procedure Rooms were included in the inventory and measure of capacity. Over the three-year reporting period from 2013 to 2015 (per Joint Annual Reports-TN Dept. of Health-Div. of Planning and Assessment (PPA)-Health Facilities Statistics Unit), the available ASTC operating rooms/procedure rooms capacity providing eye services within the Service Area decreased from 31 to 18. For the existing active ASTCs providing eye services within the Service Area the aggregate totals for 2015 were: OR (Operating Room) Utilization as a % of HSDA State Guidelines-141.65% - ave.1789 cases/OR & PR (Procedure Room)-27.86%-ave.743 cases/PR. See Schedule of Historical Capacity & Utilization of ASTCs with Eye Service in 8 County below.*

**Historical Capacity & Utilization of ASTCs with Eye Service within 8 County Service Area**

			2013	2014	2015 (Final)					
ASTC	County	Oper.Rms/ Proc.Rms in 2015	Cases	Cases	Total Cases	OR Cases	Proc. Rm Cases	Eye cases % of Total Cases in 2015	ORs % of Utilization Std for 2015	PR % of Utilization Std for 2015
<b>The Eye Surgery Center of Oak Ridge</b>										
Multispecialty-ASTC (Eye & Plastic)	Anderson	2 / 1 = 3								
Ophthalmology			3,090	3,112	3,328	2,205	1,023	91.76%		
Total Outpatient Surgeries			3,251	3,302	3,518	2,495	1,023		98.77%	38.36%
<b>Eye Surgery Center of East Tennessee</b>										
Single Specialty-ASTC Ophthalmology	Knox	2 / 1 = 3								
Ophthalmology			3,710	4,572	3,792	2,930	862	100.00%		
Total Outpatient Surgeries			3,710	4,572	3,792	2,930	862		115.99%	32.32%
<b>Physicians Surgery Center of Knoxville</b>										
Multispecialty-ASTC	Knox	5 / 0 = 5								
Ophthalmology			581	912	497	497	-	11.11%		N/A
Total Outpatient Surgeries			4,670	5,102	4,472	4,472	-		70.82%	N/A
<b>Knoxville Eye Surgery Center</b>										
Single Specialty-ASTC Ophthalmology	Knox	4 / 1 = 5								
Ophthalmology			10,187	9,628	14,203	13,307	896	100.00%		
Total Outpatient Surgeries			10,187	9,628	14,203	13,307	896		263.40%	33.60%
<b>Southeast Eye Surgery Center, LLC</b>										
Single Specialty-ASTC Ophthalmology	Knox	1 / 1 = 2								
Ophthalmology	(245 days in 2014)		N/A	687	2,034	1,843	191	100.00%		
Total Outpatient Surgeries			N/A	687	2,034	1,843	191		145.92%	7.16%
<b>Total Service Area-Active ASTCs</b>		<b>14 / 4 = 18</b>								
Ophthalmology			17,568	18,911	23,854	20,782	2,972	85.14%		
Total Outpatient Surgeries			21,818	23,291	28,019	25,047	2,972		141.65%	27.86%
<b>Cases per OR/PR</b>			1,212	1,294	1,557	1,789	743			
<b>ASTC's Discontinued since 2013:</b>										
<b>Advanced Family Surgery Center</b>										
Multispecialty-ASTC	Anderson	4 / 1 = 5								
Ophthalmology			No longer performing eye procedures as of 2013					N/A		
Total Outpatient Surgeries			No longer performing eye procedures as of 2013						N/A	N/A
<b>Maryville Surgery Center</b>										
Multispecialty-ASTC	Blount	4 / 0 = 4								
Ophthalmology			483	N/A	N/A	N/A	N/A	N/A		
Total Outpatient Surgeries			3,342	Facility Closed in 2014			N/A		N/A	N/A
<b>St. Mary's Ambulatory Surgery Center**</b>										
Multispecialty-ASTC	Knox	6 / 0 = 6								
Ophthalmology	7/1/2012-	**	728	N/A	N/A	N/A	N/A	N/A		
Total Outpatient Surgeries	1/31/2013		3,218	N/A	N/A	N/A	N/A		N/A	N/A
<b>**Closed 1/31/2013-now operated as</b>										
<b>Hospital Dept of Tennova Knoxville Medical Center</b>										
	<b>Discontinued</b>	<b>14 / 1 = 15</b>								

Note: The Service Area's ASTC operating/procedure room capacity for eye surgeries has dropped from 31 to 18 over the three reported years.

Source of Information: Joint Annual Reports (JAR)-TN Dept of Health-Div. of Planning And Assessment(PPA)-  
Health Facilities Statistics Unit.

6. Provide applicable utilization and/or occupancy statistics for your institution for each of the past three years and the projected annual utilization for each of the two years following completion of the project. Additionally, provide the details regarding the methodology used to project utilization. The methodology **must include** detailed calculations or documentation from referral sources, and identification of all assumptions.

**RESPONSE:** *The ophthalmic surgical and eye laser procedure cases performed by the six ophthalmic surgeons representing the four Knoxville-based medical ophthalmic practices (the "ESCK group") for the three-year period 2013 through 2015 by ASTC, Hospital facility, or office facilities (where these were performed) are reflected in the schedule below. Based on this historical utilization by the ESCK group the Applicant projects an increase in surgical case volume of 10% (cumulative from year ending 2015 to Year 1-2018) and an annual increase of 10% in surgical case volume for Year 2- 2019. This assumes that the proposed ASTC is approved, licensed, accredited and operational as of January 1, 2018 and the ESCK group will perform all of the projected cases for Year 1 and Year 2 in the new ophthalmic ASTC.*

**EYE SURGERY CENTER OF KNOXVILLE (ESCK)  
UTILIZATION-FYE 2013/FYE 2014/FYE 2015**

**ESCK UTILIZATION- # SURGICAL CASES:**

	FYE 2013 Total	FYE 2014 Total	Increase % Cases	FYE 2015 Total	Increase % Cases
Cataract Surgery	2,449	2,579		2,870	
Glaucoma Surgery	4	12		11	
Other Eye Care Surgery	16	16		29	
Yag Laser Procedures	597	646		697	
Retina Laser Procedures	13	29		25	
SLT Laser Procedures	35	44		17	
<b>Total</b>	<b>3,114</b>	<b>3,326</b>	<b>6.81%</b>	<b>3,649</b>	<b>9.71%</b>

**ASTC or Hospital Facility Utilized:**

	OR Cases	PR Cases	OR Cases	PR Cases	OR Cases	PR Cases
Knoxville Eye Surgery Center	860	200	880	225	911	250
Physician's Surgery Center of Knoxville	225		279		379	
St Mary's Ambulatory Surgery Ctr (closed in 2013 now Tennova PRMC)	1,229					
Tennova Physicians Regional Medical Center (PRMC)-Hospital	1	43	1,246		1,343	-
Tennova North Knoxville Medical Center-Powell, TN		300		341		329
Tennova LaFollette Medical Center-Hospital	154		202		277	
Ophthalmic Medical Offices of ESCK Group		102		153		160
<b>OR Cases</b>	<b>2,469</b>		<b>2,607</b>		<b>2,910</b>	
<b>PR Cases</b>		<b>645</b>		<b>719</b>		<b>739</b>
<b>Total-OR+PR</b>	<b>3,114</b>		<b>3,326</b>		<b>3,649</b>	



**ESCK UTILIZATION- # SURGICAL CASES:**

	ACTUAL			PROJECTED	
	FYE 2013	FYE 2014	FYE 2015	YR 1	YR 2
	Total	Total	Total	Total	Total
Cataract Surgery	2,449	2,579	2,870	3156	3473
Glaucoma Surgery	4	12	11	12	13
Other Eye Care Surgery	16	16	29	32	37
Yag Laser Procedures	597	646	697	767	843
Retina Laser Procedures	13	29	25	28	29
SLT Laser Procedures	35	44	17	19	21
<b>Total</b>	<b>3,114</b>	<b>3,326</b>	<b>3,649</b>	<b>4014</b>	<b>4416</b>

6.81% 9.71% 10.00% 10.00%

## ECONOMIC FEASIBILITY

1. Provide the cost of the project by completing the Project Costs Chart on the following page. Justify the cost of the project.
  - A. All projects should have a project cost of at least \$15,000 (the minimum CON Filing Fee). (See Application Instructions for Filing Fee)
  - B. The cost of any lease (building, land, and/or equipment) should be based on fair market value or the total amount of the lease payments over the initial term of the lease, whichever is greater. Note: This applies to all equipment leases including by procedure or "per click" arrangements. The methodology used to determine the total lease cost for a "per click" arrangement must include, at a minimum, the projected procedures, the "per click" rate and the term of the lease.
  - C. The cost for fixed and moveable equipment includes, but is not necessarily limited to, maintenance agreements covering the expected useful life of the equipment; federal, state, and local taxes and other government assessments; and installation charges, excluding capital expenditures for physical plant renovation or in-wall shielding, which should be included under construction costs or incorporated in a facility lease.
  - D. Complete the Square Footage Chart on page 8 and provide the documentation. Please note the Total Construction Cost reported on line 5 of the Project Cost Chart should equal the Total Construction Cost reported on the Square Footage Chart.
  - E. For projects that include new construction, modification, and/or renovation—documentation must be provided from a licensed architect or construction professional that support the estimated construction costs. Provide a letter that includes the following:
    - 1) A general description of the project;
    - 2) An estimate of the cost to construct the project;
    - 3) A description of the status of the site's suitability for the proposed project; and
    - 4) Attesting the physical environment will conform to applicable federal standards, manufacturer's specifications and licensing agencies' requirements including the AIA Guidelines for Design and Construction of Hospital and Health Care Facilities in current use by the licensing authority.

### **RESPONSE:**

*Project Cost Chart-Item A.line 1. Architectural & Engineering Fees were estimated by Architect.*

*Project Cost Chart-Item A.line 2 .A contingency amount for Legal, Administrative & Consultant Fees were estimated by Consultant & Attorney representing the Project.*

*Project Cost Chart-Item A.line 3. Acquisition of Site amount reflects purchase price of parcel in Commercial Purchase & Sale Agreement-See Attachment Section A-6A Site Control-Option to Purchase*

*Project Cost Chart-Item A.lines 4-6. Includes cost estimates by Architect for Preparation of Site, Total Construction Costs -4,200 sq ft facility at \$175/sq ft. along with a contingency amount. See Attachment B-Economic Feasibility-1 Documentation of Construction Cost Estimate-Licensed Architect Letter*

*Project Cost Chart-Item A.line 8. Moveable equipment includes all medical/surgical equipment, office equipment, computer & telecommunication equipment, furniture & fixtures for designated areas within the facility. The two operating rooms will each be equipped with a phaco unit (approx.\$62,000 per unit) and a surgical microscope (approx.\$52,000 per unit). Total cost for equipment was provided based on discussions*

*with vendors and estimate from Consultant (phaco units & surgical microscopes would be only items in excess of \$50,000).*

***Item 1.A.*** *Based on Instructions-CON Application Fee=\$5.75/\$1000.00 for Project Cost (\$15,000-Minimum) \$15,000.00 is required for CON Application Fee.*

***Item 1. B.*** *N/A-Not Applicable.*

***Item 1. C.*** *Addressed in Cost estimate Project Cost Chart-Item A. line 8.*

***Item 1. D.*** *Square Footage Chart completed. ASTC Construction Cost Per Square Foot for Years 2013-2015*

*Construction ranges are not available due to insufficient sample size from TN-HSDA. ASTC Construction Cost Per Square Foot for Years 2011-2013 for new construction projects approved by TN-HSDA ranged from \$200.00/sq ft-1<sup>st</sup> Quartile; \$252.74/sq ft-Median; \$371.75/sq ft-3<sup>rd</sup> Quartile. Based on this information the project is well within the range for ASTC new construction projects at \$175.00/sq.ft (exclusive of land & site preparation costs) & \$261.90/sq ft (inclusive of land & site preparation costs).*

***Item 1.E.*** *See Attachment B-Economic Feasibility-1 Documentation of Construction Cost Estimate-Licensed Architect Letter.*

## PROJECT COST CHART

A.	Construction and equipment acquired by purchase:	
	1. Architectural and Engineering Fees	\$65,000.00
	2. Legal, Administrative (Excluding CON Filing Fee), Consultant Fees	\$70,000.00
	3. Acquisition of Site	\$270,000.00
	4. Preparation of Site	\$95,000.00
	5. Total Construction Costs (4,200 sq ft @ \$175.00/sq ft)	\$735,000.00
	6. Contingency Fund	\$100,000.00
	7. Fixed Equipment (Not included in Construction Contract)	
	8. Moveable Equipment (List all equipment over \$50,000 as separate attachments)	\$500,000.00
	9. Other (Specify): _____	
B.	Acquisition by gift, donation, or lease:	
	1. Facility (inclusive of building and land)	
	2. Building only	
	3. Land only	
	4. Equipment (Specify) _____	
	5. Other (Specify) _____	
C.	Financing Costs and Fees:	
	1. Interim Financing	
	2. Underwriting Costs	
	3. Reserve for One Year's Debt Service	
	4. Other (Specify) _____	
D.	Estimated Project Cost (A+B+C)	\$1,835,000.00
E.	CON Filing Fee	\$15,000.00
F.	Total Estimated Project Cost (D+E) <span style="float: right; margin-right: 50px;"><b>TOTAL</b></span>	\$1,850,000.00

## 2. Identify the funding sources for this project.

Check the applicable item(s) below and briefly summarize how the project will be financed. **(Documentation for the type of funding MUST be inserted at the end of the application, in the correct alpha/numeric order and identified as Attachment Section B-Economic Feasibility-2.)**

- ☒ A. Commercial loan – Letter from lending institution or guarantor stating favorable initial contact, proposed loan amount, expected interest rates, anticipated term of the loan, and any restrictions or conditions;
- ☐ B. Tax-exempt bonds – Copy of preliminary resolution or a letter from the issuing authority stating favorable initial contact and a conditional agreement from an underwriter or investment banker to proceed with the issuance;
- ☐ C. General obligation bonds – Copy of resolution from issuing authority or minutes from the appropriate meeting;
- ☐ D. Grants – Notification of intent form for grant application or notice of grant award;
- ☐ E. Cash Reserves – Appropriate documentation from Chief Financial Officer of the organization providing the funding for the project and audited financial statements of the organization; and/or
- ☒ F. Other – Identify and document funding from all other sources. (*Capital Contributions from LLC Members-\$21,000*)

**RESPONSE:** *The project's capital land & construction costs, equipment costs, and organizational costs will be financed through bank loans from First Citizens Bank-Knoxville, Tennessee, totaling \$1,850,000 and Capital Contributions from the LLC Members totaling \$21,000. See letter from lending institution- First Citizens Bank in Attachment Section B-Economic Feasibility-2.*

## 3. Complete Historical Data Charts on the following two pages—**Do not modify the Charts provided or submit Chart substitutions!**

Historical Data Chart represents revenue and expense information for the last *three (3)* years for which complete data is available. Provide a Chart for the total facility and Chart just for the services being presented in the proposed project, if applicable. **Only complete one chart if it suffices.**

*Note that "Management Fees to Affiliates" should include management fees paid by agreement to the parent company, another subsidiary of the parent company, or a third party with common ownership as the applicant entity. "Management Fees to Non-Affiliates" should include any management fees paid by agreement to third party entities not having common ownership with the applicant*

**RESPONSE:** *See Historical Data Chart.*

## HISTORICAL DATA CHART

Give information for the last three (3) years for which complete data are available for the facility or agency.

The fiscal year begins in \_\_\_\_January\_\_\_\_ (Month).

	Year 2013	Year 2014	Year 2015
A. Utilization Data (Specify unit of measure)	94,210	95,199	101,730
	Patient Encounters	Patient Encounters	Patient Encounters
B. Revenue from Services to Patients			
1 Inpatient Services	\$ -	\$ -	\$ -
2 Outpatient Services	-	-	-
3 Emergency Services	-	-	-
4 Other Operating Revenue (Specify) Patient Services	24,344,357	26,728,685	26,227,326
<b>Gross Operating Revenue</b>	<b>\$ 24,344,357</b>	<b>\$ 26,728,685</b>	<b>\$ 26,227,326</b>
C. Deductions from Gross Operating Revenue			
1 Contractual Adjustments	\$ 11,860,997	\$ 13,645,529	\$ 12,594,411
2 Provision for Charity Care	136,257	166,645	150,949
3 Provisions for Bad Debt	353,834	454,260	406,087
<b>Total Deductions</b>	<b>\$ 12,351,088</b>	<b>\$ 14,266,435</b>	<b>\$ 13,151,447</b>
<b>NET OPERATING REVENUE</b>	<b>\$ 11,993,269</b>	<b>\$ 12,462,250</b>	<b>\$ 13,075,879</b>
D. Operating Expenses			
1 Salaries and Wages			
a. Direct Patient Care	\$ 3,202,198	\$ 3,827,720	\$ 3,394,167
b. Non-Patient Care	-	-	-
2 Physician's Salaries and Wages	\$ 3,400,266	\$ 3,222,416	\$ 4,155,866
3 Supplies	601,552	693,393	737,683
4 Rent			
a. Paid to Affiliates	1,128,646	1,215,651	1,164,458
b. Paid to Non-Affiliates	66,862	71,856	58,724
5 Management Fees:			
a. Paid to Affiliates	-	-	-
b. Paid to Non-Affiliates	-	-	-
6 Other Operating Expenses	2,445,289	2,527,729	2,466,869
<b>Total Operating Expenses</b>	<b>10,844,813</b>	<b>11,558,765</b>	<b>11,977,767</b>
E. <b>Earnings Before Interest, Taxes and Depreciation</b>	<b>\$ 1,148,456</b>	<b>\$ 903,485</b>	<b>\$ 1,098,112</b>
F. Non-Operating Expenses			
1 Taxes	\$ 464,000	\$ 423,975	\$ 404,375
2 Depreciation	228,648	152,491	139,690
3 Interest	93,009	75,863	40,920
4 Other Non-Operating Expenses	-	-	-
<b>Total Non-Operating Expenses</b>	<b>\$ 785,657</b>	<b>\$ 652,329</b>	<b>\$ 584,985</b>
<b>NET INCOME (LOSS)</b>	<b>\$ 362,799</b>	<b>\$ 251,156</b>	<b>\$ 513,127</b>

Chart Continues on to Next Page

<b>NET INCOME (LOSS)</b>	\$	362,799	\$	251,156	\$	513,127
G. Other Deductions						
1 Annual Principal Debt Repayment	\$	339,838	\$	83,246	\$	150,430
2 Annual Capital Expenditure		-		-		-
<b>Total Other Deductions</b>	\$	339,838	\$	83,246	\$	150,430
<b>NET BALANCE</b>	\$	22,961	\$	167,910	\$	362,697
<b>DEPRECIATION</b>		228,648		152,491		139,690
<b>FREE CASH FLOW (Net Balance + Depreciation)</b>	\$	251,609	\$	320,401	\$	502,387

Project Only

## HISTORICAL DATA CHART-OTHER EXPENSES

### OTHER EXPENSES CATEGORIES

1 Repairs & Maintenance	\$	615,885	\$	586,713	\$	563,314
2 Employee Benefit Programs		489,695		587,951		487,574
3 Pension, profit-sharing, etc.plans		163,225		152,845		114,294
4 Advertising		64,318		63,210		62,377
5 Travel, Meals & Entertainment		91,251		84,322		92,769
6 Legal & Accounting		72,752		67,656		61,533
7 Professional Services		196,225		240,916		218,205
8 Computer Services		136,586		164,885		206,572
9 Insurance		109,866		103,142		129,085
10 Telephone & Utilities		209,612		241,290		227,965
11 Office Expenses		196,226		141,161		199,878
12 Dues & Subscriptions		44,289		61,198		56,267
13 General & Administrative Expenses-Other		55,359		32,440		47,036
<b>Total Other Expenses</b>	\$	2,445,289	\$	2,527,729	\$	2,466,869

4. Complete Projected Data Charts on the following two pages – **Do not modify the Charts provided or submit Chart substitutions!**

The Projected Data Chart requests information for the two years following the completion of the proposed services that apply to the project. Please complete two Projected Data Charts. One Projected Data Chart should reflect revenue and expense projections for the ***Proposal Only*** (i.e., if the application is for additional beds, include anticipated revenue from the proposed beds only, not from all beds in the facility). The second Chart should reflect information for the total facility. **Only complete one chart if it suffices.**

*Note that "Management Fees to Affiliates" should include management fees paid by agreement to the parent company, another subsidiary of the parent company, or a third party with common ownership as the applicant entity. "Management Fees to Non-Affiliates" should include any management fees paid by agreement to third party entities not having common ownership with the applicant.*

**RESPONSE:** *See Projected Data Chart.*



**PROJECTED DATA CHART**

Give information for the two following the completion of this proposal.

The fiscal year begins in \_\_\_\_January\_\_\_\_ (Month).

		<b>Year 2018</b>	<b>Year 2019</b>
A.	Utilization Data (Specify unit of measure)	4,014	4,416
		<i>Surgical Cases</i>	<i>Surgical Cases</i>
B.	Revenue from Services to Patients		
	1 Inpatient Services	\$ -	\$ -
	2 Outpatient Services	-	-
	3 Emergency Services	-	-
	4 Other Operating Revenue (Specify) <b>ASTC-Facility Fees</b>	<u>6,889,740</u>	<u>7,581,091</u>
	<b>Gross Operating Revenue</b>	<b>\$ 6,889,740</b>	<b>\$ 7,581,091</b>
C.	Deductions from Gross Operating Revenue		
	1 Contractual Adjustments	\$ 3,819,338	\$ 4,202,524
	2 Provision for Charity Care	59,677	65,664
	3 Provisions for Bad Debt	<u>99,462</u>	<u>109,441</u>
	<b>Total Deductions</b>	<b>\$ 3,978,477</b>	<b>\$ 4,377,630</b>
	<b>NET OPERATING REVENUE</b>	<b>\$ 2,911,263</b>	<b>\$ 3,203,462</b>
D.	Operating Expenses		
	1 Salaries and Wages		
	a. Direct Patient Care	\$ 272,896	\$ 281,083
	b. Non-Patient Care	68,640	70,699
	2 Physician's Salaries and Wages	-	-
	3 Supplies	795,850	893,189
	4 Rent		
	a. Paid to Affiliates	-	-
	b. Paid to Non-Affiliates	-	-
	5 Management Fees:		
	a. Paid to Affiliates	-	-
	b. Paid to Non-Affiliates	-	-
	6 Other Operating Expenses	<u>410,207</u>	<u>422,856</u>
	<b>Total Operating Expenses</b>	<b>\$ 1,547,593</b>	<b>\$ 1,667,827</b>
E.	<b>Earnings Before Interest, Taxes and Depreciation</b>	<b>\$ 1,363,670</b>	<b>\$ 1,535,635</b>
F.	Non-Operating Expenses		
	1 Taxes	\$ 15,000	\$ 15,450
	2 Depreciation	161,429	161,429
	3 Interest	60,125	55,500
	4 Other Non-Operating Expenses	<u>-</u>	<u>-</u>
	<b>Total Non-Operating Expenses</b>	<b>\$ 236,554</b>	<b>\$ 232,379</b>
	<b>NET INCOME (LOSS)</b>	<b>\$ 1,127,116</b>	<b>\$ 1,303,256</b>

Chart Continues on to Next Page

<b>NET INCOME (LOSS)</b>	\$	1,127,116	\$	1,303,256
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G. Other Deductions

1 Annual Principal Debt Repayment	\$	131,887	\$	136,512
2 Annual Capital Expenditure		-		-
<b>Total Other Deductions</b>	\$	131,887	\$	136,512
<b>NET BALANCE</b>	\$	995,229	\$	1,166,744
<b>DEPRECIATION</b>		161,429		161,429
<b>FREE CASH FLOW (Net Balance + Depreciation)</b>	\$	1,156,658	\$	1,328,173

Project Only
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## PROJECTED DATA CHART-OTHER EXPENSES

### OTHER EXPENSES CATEGORIES

1 Repairs & Maintenance	\$	55,000	\$	56,650
2 Employee Benefit Programs		68,307		70,699
3 Pension, profit-sharing, etc.plans		-		-
4 Advertising		5,000		5,150
5 Travel, Meals & Entertainment		6,000		6,180
6 Legal & Accounting		12,000		12,360
7 Professional Services		145,000		149,350
8 Computer Services		30,000		30,900
9 Insurance		22,500		23,175
10 Telephone & Utilities		28,800		29,664
11 Office Expenses		27,600		28,428
12 Dues & Subscriptions		4,000		4,120
13 General & Administrative Expenses-Other		6,000		6,180
<b>Total Other Expenses</b>	\$	410,207	\$	422,856

5. A. Please identify the project's average gross charge, average deduction from operating revenue, and average net charge using information from the Projected Data Chart for Year 1 and Year 2 of the proposed project. Please complete the following table. **RESPONSE:** *See Table below.*

	Previous Year	Current Year	Year One	Year Two	% Change (Current Year to Year 2)
<b>Gross Charge</b> (Gross Operating Revenue/Utilization Data)	N/A	N/A	\$1,716.43	\$1,716.73	0.00%
<b>Deduction from Revenue</b> (Total Deductions/Utilization Data)	N/A	N/A	\$991.15	\$991.31	0.00%
<b>Average Net Charge</b> (Net Operating Revenue/Utilization Data)	N/A	N/A	\$725.27	\$725.42	0.00%

- B. Provide the proposed charges for the project and discuss any adjustment to current charges that will result from the implementation of the proposal. Additionally, describe the anticipated revenue from the project and the impact on existing patient charges.

**RESPONSE:** *This is a new project and there are no existing (current) charges to be affected by the implementation of this proposal. The proposed charges for the project are set forth in the following Section C. along with anticipated revenue from the project which is set forth in the Projected Data Chart.*

- C. Compare the proposed charges to those of similar facilities in the service area/adjoining service areas, or to proposed charges of projects recently approved by the Health Services and Development Agency. If applicable, compare the proposed charges of the project to the current Medicare allowable fee schedule by common procedure terminology (CPT) code(s).

**RESPONSE:** *The proposed gross charge/case (\$1,716.43- YR 1 & \$1716.73-YR 2) and average net charge/case (\$725.27-YR 1 & \$725.42-YR 2) for the project are lower than the overall average gross charge/case-\$2,275.82 and the overall average net charge/case-\$815.60 for the four similar eye ASTCs in the service area. In addition, the eye ASTC gross charges/net charges are typically lower than multi-specialty ASTC rates and considerably lower than Hospital Outpatient Department (HOPD) payment rates for the same procedures under Medicare. Proposed charges have been scheduled in accordance with the project's most frequently performed procedures by CPT code in contrast with the current Medicare allowable fee schedule for the Knox County, TN CSA -28940 effective as of 1/1/2016, and projected utilization data for YRs 1 & 2. See Schedules below.*

**COMPARISON OF GROSS & NET CHARGES OF SERVICE AREA FACILITIES  
CY 2015 TO THIS PROJECT (ESCK)-YR 1-2018/YR 2-2019**

ASTC	TOTAL CASES CY2015	TOTAL PROJECTED CASES	GROSS CHARGES	NET AVE CHARGES	GROSS CHARGE/ CASE	NET AVE CHARGE/ CASE
The Eye Surgery Center of Oak Ridge Multispecialty-ASTC (Eye & Plastic)	3,518	N/A	\$ 4,269,068	\$ 2,626,756	\$ 1,213.49	\$ 746.66
Eye Surgery Center of East Tennessee Single Specialty-ASTC Ophthalmology	3,792	N/A	\$ 13,162,772	\$ 4,003,197	\$ 3,471.20	\$ 1,055.70
Knoxville Eye Surgery Center Single Specialty-ASTC Ophthalmology	14,203	N/A	\$ 28,199,293	\$ 10,340,142	\$ 1,985.45	\$ 728.03
Southeast Eye Surgery Center, LLC Single Specialty-ASTC Ophthalmology	2,034	N/A	\$ 7,957,668	\$ 2,234,920	\$ 3,912.32	\$ 1,098.78
<b>TOTAL SERVICE AREA FACILITIES</b>	<b>23,547</b>		<b>\$ 53,588,801</b>	<b>\$ 19,205,015</b>	<b>\$ 2,275.82</b>	<b>\$ 815.60</b>
					AVE	AVE
<b>ESCK-THIS PROJECT</b>						
Single Specialty-ASTC Ophthalmology	YR 1-2018	4,014	\$ 6,889,740	\$ 2,911,263	\$ 1,716.43	\$ 725.27
	YR 2-2019	4,416	\$ 7,581,091	\$ 3,203,462	\$ 1,716.73	\$ 725.42

Source of Information: Joint Annual Reports (JAR)-TN Dept of Health-Div. of Planning And Assessment(PPA)-  
Health Facilities Statistics Unit & Projected Data Chart.

**Eye Surgery Center of Knoxville (ESCK)-Charge Schedule  
Cahaba-CMS Medicare Allowable Reimbursement Rates  
for Ambulatory Surgery Centers-Effective 1/1/2016  
Most Frequent Procedures to be Performed-ESCK**

CPT #	Description	ESCK Charge YR 1 & YR 2	Medicare Rates Knox County-TN CSA (28940)*	CPT Group	Projected Utilization	
					YR 1-2018 # Cases	YR 2-2019 # Cases
65855	TRABECULOPLASTY-LASER-1/MORE SESSION	\$ 600.00	\$ 153.07	Laser-SLT	19	21
66761	IRIDOTOMY /IRIDECTOMY BY LASER	\$ 600.00	\$ 162.17	Yag-PI		
66762	IRIDOPLASTY BY PHOTOCOAGULATION	\$ 600.00	\$ 215.75	Yag-PI		
66821	YAG CAPSULOTOMY	\$ 600.00	\$ 215.75	Yag-Cap	767	843
66825	REPOSITIONING OF IOL	\$ 2,000.00	\$ 855.22	Cat-Sx		
66852	REMOVAL OF LENS MATERIAL	\$ 2,000.00	\$ 855.22	Cat-Sx		
66982	CATARACT SURGERY COMPLEX	\$ 2,000.00	\$ 855.22	Cat-Sx		
66984	EXTRACAPSULAR CATARACT REMOVAL	\$ 2,000.00	\$ 855.22	Cat-Sx	3,156	3,473
66985	SECONDARY IOL	\$ 2,000.00	\$ 855.22	Cat-Sx		
66986	EXCHANGE OF IOL	\$ 2,000.00	\$ 855.22	Cat-Sx		
67031	YAG VITREOLYSIS	\$ 600.00	\$ 215.75	Laser-Ret		
67145	PROPHYLAXIS RET DETACH-PHOTOCOAG	\$ 600.00	\$ 215.75	Laser-Ret	28	29
67210	PHOTOCOAG LASER RETINA LESION	\$ 600.00	\$ 215.75	Laser-Ret		
65420	EXCISION OF PTERYGIUM w/o GRAFT	\$ 2,000.00	\$ 855.22	Oth-Sx		
65426	EXCISION OF PTERYGIUM w/ GRAFT	\$ 2,000.00	\$ 855.22	Oth-Sx	32	37
65930	REMOVAL BLOOD CLOT-ANT. SEGMENT	\$ 2,000.00	\$ 855.22	Oth-Sx		
66172	TRABECULOTOMY AB EXT	\$ 2,000.00	\$ 855.22	Glauc-Sx		
66711	CYCLOPHOTOCOAGULATION, ENDOSCOPIC (ECP)	\$ 2,000.00	\$ 855.22	Glauc-Sx	12	13
					<b>4,014</b>	<b>4,416</b>

\*Source -published CMS ASC Fee Schedule-Cahaba GBA Website.

6. A. Discuss how projected utilization rates will be sufficient to support the financial performance. Indicate when the project's financial breakeven is expected and demonstrate the availability of sufficient cash flow until financial viability is achieved. Provide copies of the balance sheet and income statement from the most recent reporting period of the institution and the most recent audited financial statements with accompanying notes, if applicable. For all projects, provide financial information for the corporation, partnership, or principal parties that will be a source of funding for the project. Copies must be inserted at the end of the application, in the correct alpha-numeric order and labeled as **Attachment Section B-Economic Feasibility-6A**. **NOTE: Publicly held entities only need to reference their SEC filings.**

**RESPONSE:** *Projected utilization rates will generate positive cash flow for the project in the first year of operation (in excess of \$1,100,000) and in the second year as well (in excess of \$1,300,000) with net operating margins of 46.84% in Year 1 and 47.94% in Year 2 according to the Projected Data Chart. The projected utilization reflects competitive charge rates (less than similar eye ASTCs and HOPDs) and Medicare allowable reimbursement rates. The project is expected to provide sufficient cash flow and be financially viable once operations are initiated.*

*See Financial Statements & other financial information included in Attachment Section B-Economic Feasibility-6A.*

- B. Net Operating Margin Ratio – Demonstrates how much revenue is left over after all the variable or operating costs have been paid. The formula for this ratio is: (Earnings before interest, Taxes, and Depreciation/Net Operating Revenue).

Utilizing information from the Historical and Projected Data Charts please report the net operating margin ratio trends in the following table:

**RESPONSE:** *The Historical Data Chart represents summarized financial information from the four ophthalmic medical practices which are owned by the participating physician member-owners (“ESCK group”) of the Applicant and is provided for information purposes. Net Operating Margin Ratio is Not Applicable-N/A for the Historical Data Chart.*

*The Net Operating Margin Ratio Trends are positive.:*

Year	2nd Year previous to Current Year	1st Year previous to Current Year	Current Year	Projected Year 1	Projected Year 2
Net Operating Margin Ratio	N/A	N/A	N/A	46.84%	47.94%

- C. Capitalization Ratio (Long-term debt to capitalization) – Measures the proportion of debt financing in a business's permanent (Long-term) financing mix. This ratio best measures a business's true capital structure because it is not affected by short-term financing decisions. The formula for this ratio is: (Long-term debt/Total Equity (Net assets)) x 100).

For the entity (applicant and/or parent company) that is funding the proposed project please provide the capitalization ratio using the most recent year available from the funding entity's audited balance sheet, if applicable. The Capitalization Ratios are not expected from outside the company lenders that provide funding.

**RESPONSE:** *Not Applicable-NA. The Applicant is a newly established entity. Bank financing from commercial bank will fund the entire initial capital, equipment & working capital costs for the project.*

7. Discuss the project's participation in state and federal revenue programs including a description of the extent to which Medicare, TennCare/Medicaid and medically indigent patients will be served by the project. Additionally, report the estimated gross operating revenue dollar amount and percentage of projected gross operating revenue anticipated by payor classification for the first year of the project by completing the table below.

**RESPONSE:** *Applicant will fully participate in all Medicare, TennCare/Medicaid programs and will serve medically indigent patients. Applicant currently anticipates Projected Gross Operating Revenue of 56.08% from Medicare/Medicare Managed Care patients and 5.9% from TennCare/Medicaid patients as a % of the Total Project in Year 1. See Table Below*

#### Applicant's Projected Payor Mix, Year 1

Payor Source	Projected Gross Operating Revenue	As a % of total
Medicare/Medicare Managed Care	\$3,864,029	56.08%
TennCare/Medicaid	\$406,495	5.90%
Commercial/Other Managed Care	\$2,073,123	30.09%
Self-Pay	\$486,416	7.06%
Charity Care	\$59,677	0.87%
Other (Specify) _____		
Total	\$6,889,740	100.00%

8. Provide the projected staffing for the project in Year 1 and compare to the current staffing for the most recent 12-month period, as appropriate. This can be reported using full-time equivalent (FTEs) positions for these positions. Additionally, please identify projected salary amounts by position classifications and compare the clinical staff salaries to prevailing wage patterns in the proposed service area as published by the Department of Labor & Workforce Development and/or other documented sources.

**RESPONSE:** *See Schedules below.*

## Eye Surgery Center of Knoxville

### STAFFING ANALYSIS & PLAN

PERSONNEL:	STATUS	ESCK	HRS/	DAYS/	WKS/	HRS/	PROJECTED		COST
		HRLY RATE	DAY	WK	YR	YR	YR 1	YR 2	
RN-Admin & Circulator	FTE	\$ 32.00	8	5.00	52	2,080	\$ 66,560.00	\$ 68,556.80	
RN/Pre-Op/Infection Control	FTE	\$ 28.00	8	5.00	52	2,080	\$ 58,240.00	\$ 59,987.20	
RN/PACU	FTE	\$ 28.00	8	5.00	52	2,080	\$ 58,240.00	\$ 59,987.20	
Surgical Scrub Tech	Shared-PT	\$ 18.00	8	4.00	52	1,664	\$ 29,952.00	\$ 30,850.56	
Surgical Scrub Tech	Shared-PT	\$ 18.00	8	4.00	52	1,664	\$ 29,952.00	\$ 30,850.56	
Surgical Scrub Tech	Shared-PT	\$ 18.00	8	4.00	52	1,664	\$ 29,952.00	\$ 30,850.56	
Direct Patient Care-FTE	5.40					11,232	\$ 272,896.00	\$ 281,082.88	
Registration & Medical Records	FTE	\$ 13.00	8	5.00	52	2,080	\$ 27,040.00	\$ 27,851.20	
Billing & Insurance-Administration	FTE	\$ 20.00	8	5.00	52	2,080	\$ 41,600.00	\$ 42,848.00	
Non-Patient Care-FTE	2.00					4,160	\$ 68,640.00	\$ 70,699.20	
Total FTE Equivalents	7.40						\$ 341,536.00	\$ 351,782.08	
Staffing Taxes & Benefit Cost @	20%						\$ 68,307.20	\$ 70,356.42	
*Projected Increase in Wages @ 3%/YR						TOTAL	\$ 409,843.20	\$ 422,138.50	

### Schedule of Proposed Compensation by Job Discipline Eye Surgery Center of Knoxville

			Source: TN Dept of Labor & Workforce Dev. Div Emp. Sec. R&S-Knoxville MSA 2015			
PERSONNEL/Job Discipline:	STATUS	ESCK HRLY RATE	Entry Level HRLY RATE	Median HRLY RATE	Experienced HRLY RATE	
RN-Admin & Circulator	FTE	\$ 32.00	\$ 20.55	\$ 26.10	\$ 28.80	
RN/Pre-Op/Infection Control	FTE	\$ 28.00	\$ 20.55	\$ 26.10	\$ 28.80	
RN/PACU	FTE	\$ 28.00	\$ 20.55	\$ 26.10	\$ 28.80	
Surgical Scrub Tech	Shared-PT	\$ 18.00	\$ 15.35	\$ 17.60	\$ 18.95	
Surgical Scrub Tech	Shared-PT	\$ 18.00	\$ 15.35	\$ 17.60	\$ 18.95	
Surgical Scrub Tech	Shared-PT	\$ 18.00	\$ 15.35	\$ 17.60	\$ 18.95	
Registration & Medical Records	FTE	\$ 13.00	\$ 11.25	\$ 14.40	\$ 17.50	
Billing & Insurance-Administration	FTE	\$ 20.00	\$ 10.40	\$ 17.20	\$ 19.65	



9. Describe all alternatives to this project which were considered and discuss the advantages and disadvantages of each alternative including but not limited to:
  - A. Discuss the availability of less costly, more effective and/or more efficient alternative methods of providing the benefits intended by the proposal. If development of such alternatives is not practicable, justify why not, including reasons as to why they were rejected.
  - B. Document that consideration has been given to alternatives to new construction, e.g., modernization or sharing arrangements.

**RESPONSE:** *The Applicant considered alternatives of renovating an existing building in another area of Knox County but determined that a newly-constructed facility designed to address the long term needs of the physicians and their patients was the best alternative. The ASTC site location in North Knoxville provides the best accessibility and convenience to the physicians and their patients. This Facility will allow the physicians to maximize their productivity in a quality cost-effective environment which can be constructed for a realizable cost. The Applicant believes this specialized ophthalmic ASTC will provide more long-term value to the patients and the physicians. None of the existing ophthalmic ASTCs (which are already highly utilized) can accommodate the total needs of the physicians and their patients.*

## **CONTRIBUTION TO THE ORDERLY DEVELOPMENT OF HEALTH CARE**

1. List all existing health care providers (i.e., hospitals, nursing homes, home care organizations, etc.), managed care organizations, alliances, and/or networks with which the applicant currently has or plans to have contractual and/or working relationships, that may directly or indirectly apply to the project, such as, transfer agreements, contractual agreements for health services.

**RESPONSE:** *The Applicant will seek transfer agreements with both the Covenant Health and Tennova hospital systems with which the physicians currently have admitting privileges. This will include the Tennova North Knoxville Medical Center located on Dannaher Way adjacent to the ASTC project site on Dannaher Drive in Powell, TN, and Fort Sanders Regional Medical Center (Covenant Health)-1901 Clinch Avenue, Knoxville, TN 37916.*

2. Describe the effects of competition and/or duplication of the proposal on the health care system, including the impact to consumers and existing providers in the service area. Discuss any instances of competition and/or duplication arising from your proposal including a description of the effect the proposal will have on the utilization rates of existing providers in the service area of the project.

### **RESPONSE:**

- A. **Positive Effects-** *The proposed project will not adversely affect the existing facilities currently providing eye care surgical services and will greatly enhance accessibility for the patients of the four medical practices. This will contribute to the optimization of quality surgical care and outcomes for the elderly population within the Applicant's Service Area. The Service Area needs additional surgical capacity for ophthalmic surgical cases which this project can provide. The existing ophthalmic ASTCs are heavily utilized. The addition of the proposed facility will have a positive effect in addressing the growing eye care needs of the aging population and allow the ESCK group physicians to maximize their productivity.*
  - B. **Negative Effects** *No negative effects will be realized from the approval of this proposed Facility.*
3. A. Discuss the availability of and accessibility to human resources required by the proposal, including clinical leadership and adequate professional staff, as per the State of Tennessee licensing requirements and/or requirements of accrediting agencies, such as the Joint Commission and Commission on Accreditation of Rehabilitation Facilities.

**RESPONSE:** *The Applicant has strong medical leadership through its experienced Board Certified physicians and they have developed long-standing relationships within the medical community. The Applicant should have no problem obtaining adequate professional staff. There is also existing, experienced professional staff that will be available through the four medical ophthalmic practices.*

*Available Professional Anesthesia staff has been identified. See Letter from CRNA in Attachment-Section Contribution to the Orderly Development of Healthcare Clinical Leadership and Human Resources.*

*The CVs for the physician owners of the medical practices have been included in this Attachment Section as well.*

*The Applicant has identified Healthcare Consultant, Stephen H. Rudolph, CPA-Eyecare Resources, LLC to assist the Medical Staff and Professional Staff with the licensing and accreditation process-Background information has been included in this Attachment Section- Contribution to the Orderly Development of Healthcare Clinical Leadership and Human Resources.*

- B. Verify that the applicant has reviewed and understands all licensing and/or certification as required by the State of Tennessee and/or accrediting agencies such as the Joint Commission for medical/clinical staff. These include, without limitation, regulations concerning clinical leadership, physician supervision, quality assurance policies and programs, utilization review policies and programs, record keeping, clinical staffing requirements, and staff education.

**RESPONSE:** *The Applicant so verifies.*

- C. Discuss the applicant's participation in the training of students in the areas of medicine, nursing, social work, etc. (e.g., internships, residencies, etc.).

**RESPONSE:** *The Applicant does not anticipate training of students (internships and residency programs) due to the limited size and design of the Facility.*

4. Identify the type of licensure and certification requirements applicable and verify the applicant has reviewed and understands them. Discuss any additional requirements, if applicable. Provide the name of the entity from which the applicant has received or will receive licensure, certification, and/or accreditation.

**RESPONSE:** *The Applicant verifies that it has reviewed and understands the requirements for establishing a new Single Specialty- Ambulatory Surgical Treatment Center (ASTC) limited to ophthalmic procedures and will seek licensure from the Board for Licensing Healthcare Facilities-Tennessee Department of Health, certification for participation in Medicare and Medicaid/TennCare programs, and accreditation from the American Association for Ambulatory Healthcare(AAAHC).The Applicant will apply for the following:*

*Licensure: Board for Licensing Healthcare Facilities-Tennessee  
Department of Health for Single Specialty- Ambulatory Surgical  
Treatment Center (ASTC) limited to ophthalmic procedures*

**Certification Type (e.g. Medicare SNF, Medicare LTAC,etc):**

*Medicare Certification from CMS and TennCare Certification from  
TDH as Ambulatory Surgery Center limited to Ophthalmology  
(Single Specialty)*

**Accreditation (i.e., Joint Commission, CARF, etc.):** *American Association for Ambulatory Healthcare.  
(AAAHC) Accreditation as Ambulatory Surgery Center limited to  
Ophthalmology (Single Specialty)*

- A. If an existing institution, describe the current standing with any licensing, certifying, or accrediting agency. Provide a copy of the current license of the facility and accreditation designation.

**RESPONSE:** *Not Applicable (NA)*

- B. For existing providers, please provide a copy of the most recent statement of deficiencies/plan of correction and document that all deficiencies/findings have been corrected by providing a letter from the appropriate agency. **RESPONSE:** *Not Applicable (NA)*

- C. Document and explain inspections within the last three survey cycles which have resulted in any of the following state, federal, or accrediting body actions: suspension of admissions, civil monetary penalties, notice of 23-day or 90-day termination proceedings from Medicare/Medicaid/TennCare, revocation/denial of accreditation, or other similar actions.

**RESPONSE:** *Not Applicable (NA)*

- 1) Discuss what measures the applicant has or will put in place to avoid similar findings in the future. **RESPONSE:** *Not Applicable (NA)*

5. Respond to all of the following and for such occurrences, identify, explain and provide documentation:

A. Has any of the following:

- 1) Any person(s) or entity with more than 5% ownership (direct or indirect) in the applicant (to include any entity in the chain of ownership for applicant);
- 2) Any entity in which any person(s) or entity with more than 5% ownership (direct or indirect) in the applicant (to include any entity in the chain of ownership for applicant) has an ownership interest of more than 5%; and/or
- 3) Any physician or other provider of health care, or administrator employed by any entity in which any person(s) or entity with more than 5% ownership in the applicant (to include any entity in the chain of ownership for applicant) has an ownership interest of more than 5%.

B. Been subjected to any of the following:

- 1) Final Order or Judgment in a state licensure action; **RESPONSE:** *No*
- 2) Criminal fines in cases involving a Federal or State health care offense; **RESPONSE:** *No*
- 3) Civil monetary penalties in cases involving a Federal or State health care offense;  
**RESPONSE:** *No*
- 4) Administrative monetary penalties in cases involving a Federal or State health care offense;  
**RESPONSE:** *No*
- 5) Agreement to pay civil or administrative monetary penalties to the federal government or any state in cases involving claims related to the provision of health care items and services;  
and/or **RESPONSE:** *No*
- 6) Suspension or termination of participation in Medicare or Medicaid/TennCare programs.  
**RESPONSE:** *No*
- 7) Is presently subject of/to an investigation, regulatory action, or party in any civil or criminal action of which you are aware. **RESPONSE:** *No*
- 8) Is presently subject to a corporate integrity agreement. **RESPONSE:** *No*

6. Outstanding Projects: **RESPONSE:** *Not Applicable (NA)*

A. Complete the following chart by entering information for each applicable outstanding CON by applicant or share common ownership; and

<b>Outstanding Projects</b>					
<b>CON Number</b>	<b>Project Name</b>	<b>Date Approved</b>	<b>*Annual Progress Report(s)</b>		<b>Expiration Date</b>
			<b>Due Date</b>	<b>Date Filed</b>	

\* Annual Progress Reports – HSDA Rules require that an Annual Progress Report (APR) be submitted each year. The APR is due annually until the Final Project Report (FPR) is submitted (FPR is due within 90 ninety days of the completion and/or implementation of the project). Brief progress status updates are requested as needed. The project remains outstanding until the FPR is received.

B. Provide a brief description of the current progress, and status of each applicable outstanding CON. **RESPONSE:** *Not Applicable (NA)*

7. Equipment Registry – For the applicant and all entities in common ownership with the applicant.

A. Do you own, lease, operate, and/or contract with a mobile vendor for a Computed Tomography scanner (CT), Linear Accelerator, Magnetic Resonance Imaging (MRI), and/or Positron Emission Tomographer (PET)? No-Not Applicable (NA)

B. If yes, have you submitted their registration to HSDA? If you have, what was the date of submission? Not Applicable (NA)

C. If yes, have you submitted your utilization to Health Services and Development Agency? If you have, what was the date of submission? Not Applicable (NA)

## QUALITY MEASURES

Please verify that the applicant will report annually using forms prescribed by the Agency concerning continued need and appropriate quality measures as determined by the Agency pertaining to the certificate of need, if approved.

**RESPONSE:** *The Applicant so verifies.*

## SECTION C: STATE HEALTH PLAN QUESTIONS

T.C.A. §68-11-1625 requires the Tennessee Department of Health's Division of Health Planning to develop and annually update the State Health Plan (found at <http://www.tn.gov/health/topic/health-planning>). The State Health Plan guides the State in the development of health care programs and policies and in the allocation of health care resources in the State, including the Certificate of Need program. The 5 Principles for Achieving Better Health are from the State Health Plan's framework and inform the Certificate of Need program and its standards and criteria.

Discuss how the proposed project will relate to the 5 Principles for Achieving Better Health found in the State Health Plan.

1. The purpose of the State Health Plan is to improve the health of the people of Tennessee.

**RESPONSE:** *The approval of this proposed facility by HSDA is consistent with State Health Plan to improve healthcare by providing a cost effective quality care environment to address the significant increases in age-related eye diseases for the aging population*

2. People in Tennessee should have access to health care and the conditions to achieve optimal health.

**RESPONSE:** *This project will provide better accessibility for the increasing elderly 65+ yrs. patient population in the greater Knoxville (eight county) service area. The need for age-related eye surgery continues to rise and the proposed facility will significantly improve the efficiency of the six ophthalmic specialists, maximize their productivity, and increase overall accessibility of quality care to the service area. Existing ASTCs providing eye services are highly utilized and accessibility is limited. Additional ASTC surgical capacity is necessary to address the need.*

3. Health resources in Tennessee, including health care, should be developed to address the health of people in Tennessee while encouraging economic efficiencies.

**RESPONSE:** *With anticipated shortages in ophthalmic providers in the near term, it is critical to enable surgical efficiencies through specialized facilities that can address increasing patient volumes in a cost-effective environment. This project is cost effective and would provide a valuable resource for both the physicians and the patients they serve in the eight county Tennessee service area.*

4. People in Tennessee should have confidence that the quality of health care is continually monitored and standards are adhered to by providers.

**RESPONSE:** *Each of the four medical ophthalmic practices participating in this project are well established in the Knoxville area and have been providing quality eye care and surgery for 20+ years. The six ophthalmic surgeons are all Board-certified and three of the physicians are fellowship trained as subspecialists. The Applicant's group is*

*committed to excellence and will seek accreditation from Accreditation Association of Ambulatory Health Care (AAAHC) and will maintain the highest degree in standard of care for the patients they serve within the Facility.*

5. The state should support the development, recruitment, and retention of a sufficient and quality health workforce.

**RESPONSE:** *The Facility will not have any major effect on the health workforce other than to improve the efficiencies and provide an additional cost effective environment through which the work force participates.*

## PROOF OF PUBLICATION

Attach the full page of the newspaper in which the notice of intent appeared with the mast and dateline intact or submit a publication affidavit from the newspaper that includes a copy of the publication as proof of the publication of the letter of intent.

**RESPONSE:** *See Publication Affidavit from Knoxville News Sentinel with copy of the publication as Proof of the Publication of the letter of intent-Attachment.*

## NOTIFICATION REQUIREMENTS

**(Applies only to Nonresidential Substitution-Based Treatment Centers for Opiate Addiction)**

Note that T.C.A. §68-11-1607(c)(9)(A) states that "...Within ten (10) days of the filing of an application for a nonresidential substitution-based treatment center for opiate addiction with the agency, the applicant shall send a notice to the county mayor of the county in which the facility is proposed to be located, the state representative and senator representing the house district and senate district in which the facility is proposed to be located, and to the mayor of the municipality, if the facility is proposed to be located within the corporate boundaries of a municipality, by certified mail, return receipt requested, informing such officials that an application for a nonresidential substitution-based treatment center for opiate addiction has been filed with the agency by the applicant."

Failure to provide the notifications described above within the required statutory timeframe will result in the voiding of the CON application.

Please provide documentation of these notifications. **RESPONSE:** *Not Applicable-N/A*

## DEVELOPMENT SCHEDULE

T.C.A. §68-11-1609(c) provides that a Certificate of Need is valid for a period not to exceed three (3) years (for hospital projects) or two (2) years (for all other projects) from the date of its issuance and after such time shall expire; provided, that the Agency may, in granting the Certificate of Need, allow longer periods of validity for Certificates of Need for good cause shown. Subsequent to granting the Certificate of Need, the Agency may extend a Certificate of Need for a period upon application and good cause shown, accompanied by a non-refundable reasonable filing fee, as prescribed by rule. A Certificate of Need which has been extended shall expire at the end of the extended time period. The decision whether to grant such an extension is within the sole discretion of the Agency, and is not subject to review, reconsideration, or appeal.

1. Complete the Project Completion Forecast Chart on the next page. If the project will be completed in multiple phases, please identify the anticipated completion date for each phase.

**RESPONSE:** *See Project Completion Forecast Chart on the next page.*

2. If the response to the preceding question indicates that the applicant does not anticipate completing the project within the period of validity as defined in the preceding paragraph, please state below any request for an extended schedule and document the "good cause" for such an extension. **RESPONSE:** *Not Applicable-N/A. The Applicant anticipates completing the project within the period of validity.*



## PROJECT COMPLETION FORECAST CHART

Assuming the Certificate of Need (CON) approval becomes the final HSDA action on the date listed in Item 1. below, indicate the number of days from the HSDA decision date to each phase of the completion forecast.

Phase	<u>Days Required</u>	<u>Anticipated Date [Month/Year]</u>
1. Initial HSDA decision date		Feb-2017
2. Architectural and engineering contract signed	5	Feb-2017
3. Construction documents approved by the Tennessee Department of Health	75	May-2017
4. Construction contract signed	105	Jun-2017
5. Building permit secured	112	Jun-2017
6. Site preparation completed	142	Jul-2017
7. Building construction commenced	148	Jul-2017
8. Construction 40% complete	193	Sep-2017
9. Construction 80% complete	238	Oct-2017
10. Construction 100% complete (approved for occupancy)	268	Nov-2017
11. *Issuance of License	298	Dec-2017
12. *Issuance of Service	315	Jan-2018
13. Final Architectural Certification of Payment	360	Feb-2018
14. Final Project Report Form submitted (Form HR0055)	420	Apr-2018

\*For projects that **DO NOT** involve construction or renovation, complete Items 11 & 12 only.

**NOTE: If litigation occurs, the completion forecast will be adjusted at the time of the final determination to reflect the actual issue date**

**AFFIDAVIT**

STATE OF TENNESSEE

COUNTY OF KNOX

Stephen H. Rudolph, being first duly sworn, says that he is the applicant named in this application or its lawful agent, that this project will be completed in accordance with the application, that the applicant has read the directions to this application, the Rules of the Health Services and Development Agency, and T.C.A. §68-11-1601, *et seq.*, and that the responses to this application or any other questions deemed appropriate by the Health Services and Development Agency are true and complete.

Stephen H. Rudolph - con  
SIGNATURE/TITLE

Sworn to and subscribed before me this 31<sup>st</sup> day of October, 2016  
(Month) (Year)

a Notary Public in and for the County/State of Knox Co. / Tennessee

Emily Stevens  
NOTARY PUBLIC

My commission expires May 27<sup>th</sup>, 2020  
(Month/Day) (Year)



## **APPENDIX**

**Letter of Intent**

**Notification of Intent Publication**

**Miscellaneous**



**State of Tennessee  
Health Services and Development Agency**

Andrew Jackson Building, 9<sup>th</sup> Floor  
502 Deaderick Street  
Nashville, TN 37243

[www.tn.gov/hsda](http://www.tn.gov/hsda)

Phone: 615-741-2364

Fax: 615-741-9884

**LETTER OF INTENT**

The Publication of Intent is to be published in the **Knoxville News-Sentinel** which is a newspaper  
(Name of Newspaper)

of general circulation in **Knox County, Tennessee**, on or before  
(County)

**November 1st, 2016**,  
(Month / day) (Year)

for one day.

-----  
This is to provide official notice to the Health Services and Development Agency and all interested parties, in accordance with T.C.A. § 68-11-1601 *et seq.*, and the Rules of the Health Services and Development Agency, that:

**Eye Surgery Center of Knoxville,**  
(Name of Applicant)

**a proposed ambulatory surgical treatment center to be**  
(Facility Type-Existing)

owned and managed by Eye Surgery Center of Knoxville, LLC (a Limited Liability Company) intends to file an application for a Certificate of Need for the establishment of a single specialty ophthalmic ambulatory surgery center at a site on the south side of Dannaher Drive (without an address currently) in Powell, Knox County, TN approximately 0.2 miles east of the owner's office at 7800 Conner Road, Powell, TN 37849. The estimated cost for the project is approximately \$1,850,000 and the facility will seek licensure as an ambulatory surgical treatment center limited to ophthalmology, providing eye and related laser procedures. The facility will have two (2) operating rooms and one (1) laser procedure room. The project does not contain major medical equipment, initiate or discontinue any other health service, and will not affect any licensed bed complements.

The anticipated date of filing the application is November 2, 2016.

The contact person for this project is Stephen H. Rudolph, CPA who may be reached at Eyecare Resources, LLC, P.O. Box 381342, Germantown, TN 38183-1342; 901-219-0173.

  
(Signature)

  
(Date)

**shrudolphsr@yahoo.com**  
(E-mail Address)

-----  
The Letter of Intent must be filed in triplicate and received between the first and the tenth day of the month. If the last day for filing is a Saturday, Sunday or State Holiday, filing must occur on the preceding business day. File this form at the following address:

**Health Services and Development Agency  
Andrew Jackson Building, 9<sup>th</sup> Floor  
502 Deaderick Street  
Nashville, Tennessee 37243**

-----  
The published Letter of Intent must contain the following statement pursuant to T.C.A. § 68-11-1607(c)(1). (A) Any health care institution wishing to oppose a Certificate of Need application must file a written notice with the Health Services and Development Agency no later than fifteen (15) days before the regularly scheduled Health Services and Development Agency meeting at which the application is originally scheduled; and (B) Any other person wishing to oppose the application must file written objection with the Health Services and Development Agency at or prior to the consideration of the application by the Agency.

Attn: Stephen Rudolph  
To: EYECARE RESOURCES, LLC

(Advertising) NOTIFICATION OF INTENT TO APPLY FOR (Ref No: 1335809)

P.O.#:

**PUBLISHER'S AFFIDAVIT**

State of Tennessee }

S.S

County of Knox }

Before me, the undersigned, a Notary Public in and for said county, this day personally came Louise Watkins first duly sworn, according to law, says that he/she is a duly authorized representative of The Knoxville News-Sentinel, a daily newspaper published at Knoxville, in said county and state, and that the advertisement of:

(The Above-Referenced)

of which the annexed is a copy, was published in said paper on the following date(s):

11/01/2016

and that the statement of account herewith is correct to the best of his/her knowledge, information, and belief.

Louise Watkins

Subscribed and sworn to before me this 1 day of NOV 2016

Karan Dixon

Notary Public

My commission expires MY COMMISSION EXPIRES: June 26, 2017 20



### **NOTIFICATION OF INTENT TO APPLY FOR A CERTIFICATE OF NEED**

This is to provide official notice to the Health Services and Development Agency and all interested parties, in accordance with T.C.A. § 68-11-1601 *et seq.*, and the Rules of the Health Services and Development Agency, that Eye Surgery Center of Knoxville, a proposed ambulatory surgical treatment center to be owned and managed by Eye Surgery Center of Knoxville, LLC (a Limited Liability Company) intends to file an application for a Certificate of Need for the establishment of a single specialty ophthalmic ambulatory surgery center at a site on the south side of Dannaher Drive (without an address currently) in Powell, Knox County, TN approximately 0.2 miles east of the owner's office at 7800 Conner Road, Powell, TN 37849. The estimated cost for the project is approximately \$1,050,000 and the facility will seek licensure as an ambulatory surgical treatment center limited to ophthalmology, providing eye and related laser procedures. The facility will have two (2) operating rooms and one (1) laser procedure room. The project does not contain major medical equipment, initiate or discontinue any other health service, and will not affect any licensed bed complements.

The anticipated date of filing the application is November 2, 2016.

The contact person for this project is Stephen H. Rudolph, CPA who may be reached at Eyecare Resources, LLC, P.O. Box 381342, Germantown, TN 38183-1342; 901-219-0173.

Upon written request by interested parties, a local fact-finding public hearing shall be conducted.

Written requests for hearing should be sent to:

**Health Services and Development Agency  
Andrew Jackson Building, 9th Floor  
502 Deaderick Street  
Nashville, Tennessee 37243**

The published Letter of Intent must contain the following statement pursuant to T.C.A. § 68-11-1607(c)(1). (A) Any health care institution wishing to oppose a Certificate of Need application must file a written notice with the Health Services and Development Agency no later than fifteen (15) days before the regularly scheduled Health Services and Development Agency meeting at which the application is originally scheduled; and (B) Any other person wishing to oppose the application must file written objection with the Health Services and Development Agency at or prior to the consideration of the application by the Agency.



## Wanted

DEED DATED MAY 16, 2004 and recorded May 21, 2004 in Instrument No. 200405210107307 in the Register's Office for Knox County, Tennessee. More Commonly Known As: 10725 FARRAGUT HILLS BLVD, KNOXVILLE, TN 37934.

Said sale shall be held subject to all matters shown on any applicable recorded plat; any unpaid taxes; any restrictive covenants, easements, or setback lines that may be applicable; any statutory rights of redemption of any governmental agency, state or federal; any prior liens or encumbrances as well as any priority created by a future filing; to any matter that an accurate survey of the premises might disclose; and subject to, but not limited to, the following parties who may claim an interest in the above-referenced property: none.

The following individuals or entities have an interest in the above-described property: (1) TERRI LYNN NOLAN, (2) Tenants/Occupants of 10725 Farragut Hills Blvd, Knoxville, TN 37934, (3) Department of Housing

## Notice Of Foreclosure

POINT OF BEGINNING ACCORDING TO THE REVISED JULY 12, 1989 SURVEY AND PLAT BY EDDY R. GARRETT, SURVEYOR, ENTITLED RICKY AND EMILY LUSBY PROPERTY SUBDIVISION, AS SHOWN ON THE PLAT OF SAME OF RECORD IN PLAT CABINET L, SLIDE 182-C, IN THE REGISTER'S OFFICE FOR KNOX COUNTY, TENNESSEE, TO WHICH PLAT SPECIFIC REFERENCE IS HEREBY MADE FOR A MORE PARTICULAR DESCRIPTION OF SAID PROPERTY, SUBJECT TO AND CONVEYED HEREWITH ARE RIGHTS OF THE PUBLIC AND IN OVER HAMMER ROAD AND/OR GOVERNOR JOHN SEIVER HIGHWAY, BEING THE SAME PROPERTY CONVEYED TO LEESE HENDERSON, BY DEED DATED MARCH 26, 2008, OF RECORD IN INSTRUMENT 20080402073621, IN THE REGISTER'S OFFICE FOR KNOX COUNTY, TENNESSEE.

TAX ID: MAP 072 PARCEL 060.03 COMMONLY KNOWN AS: 6101 HAMMER ROAD, KNOXVILLE, TENNESSEE 37914. THIS IS IMPROVED PROPERTY KNOWN AS 6101 HAMMER RD, KNOX

## Legals

## NOTIFICATION OF INTENT TO APPLY FOR A CERTIFICATE OF NEED

This is to provide official notice to the Health Services and Development Agency and all interested parties, in accordance with T.C.A. § 68-11-1601, et seq., and the Rules of the Health Services and Development Agency, that Eye Surgery Center of Knoxville, a proposed ambulatory surgical treatment center to be owned and managed by Eye Surgery Center of Knoxville, LLC (a Limited Liability Company) intends to file an application for a Certificate of Need for the establishment of a single specialty ophthalmic ambulatory surgery center at a site on the south side of Dannaher Drive (without an address currently) in Powell, Knox County, TN approximately 0.2 miles east of the owner's office at 7800 Corner Road, Powell, TN 37849. The estimated cost for the project is approximately \$1,850,000 and the facility will seek licensure as an ambulatory surgical treatment center limited to ophthalmology, providing eye and related laser procedures. The facility will have two (2) operating rooms and one (1) laser procedure room. The project does not contain major medical equipment, initiate or discontinue any other health service, and will not attract any licensed bed complements.

The anticipated date of filing the application is November 2, 2016. The contact person for this project is Stephen H. Rudolph, CPA who may be reached at Eyecare Resources, LLC, P.O. Box 381342, Germantown, TN 38183-1342; 901-219-0173.

Upon written request by interested parties, a local Fact-Finding public hearing shall be conducted.

Written requests for hearing should be sent to:  
Health Services and Development Agency  
Andrew Jackson Building, 9th Floor  
502 Deaderick Street  
Nashville, Tennessee 37243

The published Letter of Intent must contain the following statement pursuant to T.C.A. § 68-11-1607(G)(1): (A) Any health care institution wishing to oppose a Certificate of Need application must file a written notice with the Health Services and Development Agency no later than fifteen (15) days before the regularly scheduled Health Services and Development Agency meeting at which the application is originally scheduled; and (B) Any other person wishing to oppose the application must file written objection with the Health Services and Development Agency at or prior to the consideration of the application by the Agency.

## Notice Of Foreclosure

Notice for Election of Officers, Committee Appointments, and Appointment to Greater Knoxville Foreign Trade Zone Advisory Council (Elections/Appointments at 12/13/16 Annual Meeting):  
2) Review and Consideration of Resolutions Regarding Application for Payment-in-lieu-of-taxes (PILOT) on behalf of by HTS International Corporation (HTS IC) for approximately 7.5 acres located on Cherokee Blvd., Knoxville, TN 37932;  
3) Review and Consideration of a Resolution Regarding a Fast-track Economic Development Grant Program Application on behalf of HTS International Corporation (HTS IC); and  
4) Any other matters that shall properly come before the Board.

This notice is given pursuant to the provisions of Tennessee Code Annotated §§44-101 et. seq.

## NOTICE

TO: DAMON UNDERWOOD Mark and Kathy Larue have filed a Petition against you seeking to terminate forever your parental rights to Joseph Rashad Perry. It appears ordinary process of law cannot be served upon you because your whereabouts are unknown. You are hereby ORDERED to file an Answer to the Petition to Terminate Parental Rights with the Clerk of the Juvenile Court for Knox County, Tennessee, 3223 Division Street, Knoxville, TN 37919, and to serve a copy of that Answer upon Meghan A. Bodie, Attorney for Petitioner, 109 S. Northshore Dr., Suite 402, Knoxville, TN 37919, within thirty (30) days of the last date of publication of this notice, which will be November 8, 2016. If you fail to do so, a judgment will be taken against you pursuant to T.C.A. § 36-1-170, Rule 55 of the Tennessee Civil Rules, the relief demanded in the Petition, and any other subsequently filed legal documents in the Juvenile Court. Clerk's Office at the address shown above.

## Public Notices

November 22, 2016 at 3:30 p.m. - Tallapoosa County Schools reserves the right to accept or reject any/all bids.

## REQUEST FOR BIDS

Morris-town-Hamblen High School West High School Band is seeking bids on the following items:  
A Marching Band Trip to Orlando, Florida Friday, March 21, 2014 thru Monday, March 24, 2014.

Bid specification packets are available at:  
Michael Thomas, Director of Bands  
Morris-town West High School  
One Trojan Trail  
Morris-town, TN, 37813  
(423) 581-1600 ext 1032

Bids will be opened at the Morris-town West High School band room on November 22, 2016 at 3:30 p.m. Hamblen County Schools reserves the right to accept or reject any/all bids.

## Real Estate Sales



## North

Emory Rd & I-75, 4 BR, 2.5 BA, oversized lot, in Teagues Grove, new appliances, granite, shows like model, 3,000 SF, subd pool, A+ Powell schools, by owner, \$259,900 or lease to own, (954) 547-2147

## West

FSBO, 4 BR, 2 BA, frpl, frg fenced in yard, 2 car gar., new wood flooring, Farragut, \$168,900, (865) 806-7637

ROCKY HILL, completely remodeled, 3BR, 1 1/2 BA, All new Kt., flooring, doors & paint, \$157,500, Call (865) 805-6931, 693-6931.

## Farms & Acreage

35 ACRES, of mtn, prop., deer & turkeys plentiful, plenty of space for campers, stream, Western Green Co. on State Route 349, \$55,000, (423) 620-5546, 15 min. west of Cedar Bluff, (865) 776-3817

## Manufactured Homes

3 BR, 2 BA WITH LAND, E-Z Financing, 865-745-2165  
I BUY OLDER MOBILE HOMES 1990 up, any size OK 865-384-5643

## Manufactured Homes

3500 SF CHURCH BUILDING (10 yrs. old), 1 acre, 10 acres also avail. Powell, TN, (865) 945-3757.

## Commercial RE Lease

VACANT SPACES AVAILABLE  
www.youproperties.com  
(865) 689-5500

## Retail Space/Rent

WHATZIT SOLUTION  
Just desserts

## Comm Rentals Wanted

here

Real Estate



There's no place like here

Real Estate



Find yours at

Localfreds

Find and visit property listings in town. Localfreds are easier to read... helping you find your new home sweet home.

Find yours online at

Localfreds



# Cashier's Check



**First Citizens Bank**

First Citizens Bank & Trust Company  
Raleigh, North Carolina

66-30/531

Branch No. 320

**09149651**

Date October 04, 2016

Pay to the order of Health Services and Development Agency

\$ \$15,000.00

**\*\*Fifteen Thousand Dollars and 00/100\*\***

  
Dollars

Notice To Customers  
The purchase of an Indemnity Bond or an Insurance Bond may be required before an official check of this bank will be replaced or refunded in the event it is lost, misplaced or stolen.

Remitter CCN Application Eye Surgery Center Knoxville

05-10050R (06/15)

*Santa E. White*

⑈09149651⑈ ⑆053100300⑆9801994990⑈



## **Attachment Section A-4A**

### **Ownership-Legal Entity**

**EYE SURGERY CENTER OF KNOXVILLE, LLC (ESCK)**  
**OWNERSHIP STRUCTURE-**  
**ORGANIZATIONAL CHART**

<b>AFFILIATED MEDICAL PRACTICE ENTITY</b>	<b>PARTICIPATING OWNER &amp; SURGEON IN ESCK-ASTC:</b>	<b>OWNERSHIP % IN ESCK-ASTC:</b>
<b><i>Center for Sight, PC</i></b>		
Physician Owners:		
Stephen R. Franklin, MD	Stephen R. Franklin, MD	16.67%
Kenneth Raulston, MD		
7800 Conner Road		
Powell, Tennessee 37849		
<b><i>East Tennessee Surgeon Specialists, PC</i></b>		
Physician Owners:		
John T. Dawson, MD	John T. Dawson, MD	16.67%
Kevin T. Gallaher, MD	Kevin T. Gallaher, MD	16.67%
7800 Conner Road		
Powell, Tennessee 37849		
<b><i>Steven Sterling, MD, PC</i></b>		
Physician Owner:		
Steven L. Sterling, MD	Steven L. Sterling, MD	16.67%
2607 Kingston Pike-Suite 182		
Knoxville, Tennessee 37919		
<b><i>Eye Care Centers, PLLC dba Tennessee Eye Care</i></b>		
Physician Owners:		
Thomas A. Browning, MD	Thomas A. Browning, MD	16.67%
Matthew D. Lowrance, DO	Matthew D. Lowrance, DO	16.67%
6354 Lonas Spring Drive		
Knoxville, Tennessee 37909		
	<b>TOTAL</b>	<b>100.0%</b>

## **EYE SURGERY CENTER OF KNOXVILLE, LLC OWNERSHIP**

<b>MEMBERS AND ADDRESSES FOR NOTICES</b>	<b>PERCENTAGE INTEREST IN GOVERNANCE AND FINANCIAL RIGHTS OF MEMBER</b>
--	---

Thomas A. Browning, M.D.* 6354 Lonas Spring Drive Knoxville, Tennessee 37909	16.67%
--	--------

John T. Dawson, M.D. 7800 Conner Road Powell, Tennessee 37849	16.67%
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Stephen R. Franklin, M.D. 7800 Conner Road Powell, Tennessee 37849	16.67%
--	--------

Kevin T. Gallaher, M.D. 7800 Conner Road Powell, Tennessee 37849	16.67%
--	--------

Matthew D. Lowrance, D.O. 6354 Lonas Spring Drive Knoxville, Tennessee 37909	16.67%
--	--------

Steven L. Sterling, M.D. 2607 Kingston Pike-Suite 182 Knoxville, Tennessee 37919	16.67%
--	--------

**\* Tax Matters Member**



**STATE OF TENNESSEE**  
**Tre Hargett, Secretary of State**  
**Division of Business Services**  
William R. Snodgrass Tower  
312 Rosa L. Parks AVE, 6th FL  
Nashville, TN 37243-1102

## Filing Information

**Name:** Eye Surgery Center of Knoxville, LLC

### General Information

<b>SOS Control #</b>	<b>000850055</b>	<b>Formation Locale:</b>	TENNESSEE
<b>Filing Type:</b>	Limited Liability Company - Domestic	<b>Date Formed:</b>	05/24/2016
	05/24/2016 11:34 AM	<b>Fiscal Year Close</b>	12
<b>Status:</b>	Active	<b>Member Count:</b>	6
<b>Duration Term:</b>	Perpetual		
<b>Managed By:</b>	Member Managed		

**Registered Agent Address**  
Eye Surgery Center of Knoxville, LLC  
STEPHEN R. FRANKLIN, MD  
7800 CONNER RD  
POWELL, TN 37849-3511

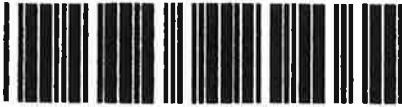
**Principal Address**  
STEPHEN R. FRANKLIN, MD  
7800 CONNER RD  
POWELL, TN 37849-3511

The following document(s) was/were filed in this office on the date(s) indicated below.

<b>Date Filed</b>	<b>Filing Description</b>	<b>Image #</b>
05/24/2016	Initial Filing	B0255-1060

<b>Active Assumed Names (if any)</b>	<b>Date</b>	<b>Expires</b>
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000850055

**ARTICLES OF ORGANIZATION  
LIMITED LIABILITY COMPANY** (ss-4270)

Page 1 of 2



**Tre Hargett**  
Secretary of State

**Division of Business Services  
Department of State  
State of Tennessee**  
312 Rosa L. Parks AVE, 6th FL  
Nashville, TN 37243-1102  
(615) 741-2286

Filing Fee: \$50.00 per member  
(minimum fee = \$300.00, maximum fee = \$3,000.00)

For Office Use Only

**-FILED-**

Control # 000850055

**The Articles of Organization presented herein are adopted in accordance with the provisions of the Tennessee Revised Limited Liability Company Act.**

**1. The name of the Limited Liability Company is:** Eye Surgery Center of Knoxville, LLC

(Note: Pursuant to the provisions of T.C.A. §48-249-106, each Limited Liability Company name must contain the words "Limited Liability Company" or the abbreviation "LLC" or "L.L.C.")

**2. Name Consent: (Written Consent for Use of Indistinguishable Name)**

☐ This entity name already exists in Tennessee and has received name consent from the existing entity.

**3. This company has the additional designation of:**

**4. The name and complete address of the Limited Liability Company's initial registered agent and office located in the state of Tennessee is:**

Eye Surgery Center of Knoxville, LLC  
STEPHEN R. FRANKLIN, MD  
7800 CONNER RD  
POWELL, TN 37849-3511  
KNOX COUNTY

**5. Fiscal Year Close Month:** December

**6. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date and time is:**  
(none) (Not to exceed 90 days)

**7. The Limited Liability Company will be:**

☒ Member Managed

☐ Manager Managed

☐ Director Managed

**8. Number of Members at the date of filing:** 6

**9. Period of Duration:** Perpetual

**10. The complete address of the Limited Liability Company's principal executive office is:**

STEPHEN R. FRANKLIN, MD  
7800 CONNER RD  
POWELL, TN 37849-3511  
KNOX COUNTY



B0255-1061 05/24/2016 11:34 AM Received by Tennessee Secretary of State Tre Hargett

**ARTICLES OF ORGANIZATION  
LIMITED LIABILITY COMPANY** (ss-4270)

Page 2 of 2



**Tre Hargett**  
Secretary of State

**Division of Business Services  
Department of State  
State of Tennessee**  
312 Rosa L. Parks AVE, 6th FL  
Nashville, TN 37243-1102  
(615) 741-2286

Filing Fee: \$50.00 per member  
(minimum fee = \$300.00, maximum fee = \$3,000.00)

For Office Use Only

**-FILED-**

Control # 000850055

**The name of the Limited Liability Company is:** Eye Surgery Center of Knoxville, LLC

**11. The complete mailing address of the entity (if different from the principal office) is:**

STEPHEN R. FRANKLIN, MD  
7800 CONNER RD  
POWELL, TN 37849-3511

**12. Non-Profit LLC (required only if the Additional Designation of "Non-Profit LLC" is entered in section 3.)**

- ☐ I certify that this entity is a Non-Profit LLC whose sole member is a nonprofit corporation, foreign or domestic, incorporated under or subject to the provisions of the Tennessee Nonprofit Corporation Act and who is exempt from franchise and excise tax as not-for-profit as defined in T.C.A. §67-4-2004. The business is disregarded as an entity for federal income tax purposes.

**13. Professional LLC (required only if the Additional Designation of "Professional LLC" is entered in section 3.)**

- ☐ I certify that this PLLC has one or more qualified persons as members and no disqualified persons as members or holders.

**Licensed Profession:**

**14. Series LLC (optional)**

- ☐ I certify that this entity meets the requirements of T.C.A. §48-249-309(a) & (b)

**15. Obligated Member Entity (list of obligated members and signatures must be attached)**

- ☐ This entity will be registered as an Obligated Member Entity (OME) Effective Date: (none)  
☐ I understand that by statute: THE EXECUTION AND FILING OF THIS DOCUMENT WILL CAUSE THE MEMBER(S) TO BE PERSONALLY LIABLE FOR THE DEBTS, OBLIGATIONS AND LIABILITIES OF THE LIMITED LIABILITY COMPANY TO THE SAME EXTENT AS A GENERAL PARTNER OF A GENERAL PARTNERSHIP. CONSULT YOUR ATTORNEY.

**16. This entity is prohibited from doing business in Tennessee:**

- ☐ This entity, while being formed under Tennessee law, is prohibited from engaging in business in Tennessee.

**17. Other Provisions:**

May 24, 2016 11:34AM

Signature Date

Electronic

Signature

Managing Member

Signer's Capacity (if other than individual capacity)

Stephen H. Rudolph as authorized representative for Stephen

Name (printed or typed)

**OPERATING AGREEMENT OF  
EYE SURGERY CENTER OF KNOXVILLE, LLC**

This Operating Agreement ("Agreement") is dated June 1, 2016, as the Operating Agreement of Eye Surgery Center of Knoxville, LLC, a Tennessee limited liability company, by and among each person named as a Member on Exhibit A attached hereto and all other persons who may hereafter become Members (as defined below).

**SECTION 1  
DEFINITIONS**

As used in this Agreement, unless the context otherwise requires, the following terms shall have the meanings set forth below:

"Act" shall mean the Revised Tennessee Limited Liability Company Act, T.C.A. §§ 48-249-101 et seq., as amended from time to time.

"Adjusted Capital Account Deficit" means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of any year after giving effect to the following adjustments: (A) credit to such Capital Account the sum of (1) any amount which such Member is obligated to restore to such Capital Account pursuant to any provision of this Agreement, plus (2) an amount equal to such Member's share of company minimum gain as determined under Regulation § 1.704-2(b)(2) and 1.704-2(d), plus (3) any amounts which such Member is deemed to be obligated to restore pursuant to Regulation § 1.704-1(b)(2)(ii)(c); and (B) debit to such Capital Account the items described in Regulation § 1.704-1(b)(2)(ii)(d)(4), (5), and (6).

"Adverse Termination" means with respect to any Member and its Membership Interest, any of the following events, circumstances or occurrences:

- (a) The Member's Interest has been the subject of an Involuntary Transfer, as defined in Section 12.1(a) below;
- (b) A Member's divorce or separation whereby the decree of divorce or any written separation or property settlement agreement shall award, or result in the Transfer of, any portion of a Member's interest in the Company to such Member's spouse;
- (c) The Member is in Bankruptcy; or
- (d) The Member fails to meet the eligibility requirements set forth in Section 5 of this Agreement;
- (e) The Member is expelled pursuant to Section 14 of this Agreement; or
- (f) The Member's Membership Interest in the Company is otherwise terminated as provided for in the Act unless such termination is included in the definition of Non-Adverse Termination below.

"Affiliate" shall mean, as to a specific person or entity, a person or entity that directly or indirectly controls, is controlled by, or under common control with, such person or entity.

"Agreement" shall mean this Operating Agreement, as amended or restated from time to time.

Articles” shall mean the Articles of Organization of the Company, as filed with the Secretary of State of Tennessee, as amended or restated from time to time.

Assignee” shall mean a transferee of a Membership Interest who has not been admitted to the Company as a Member.

Bankruptcy” means, as to any Member, the Member’s taking of, acquiescing to the taking of, or becoming (voluntarily or involuntarily) the subject of, or any action seeking relief under, or advantage of, any applicable debtor relief, liquidation, receivership, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization or similar law affecting the rights or remedies of creditors, as in effect from time to time.

Breach” shall mean any breach by a Member of any of the terms of this Agreement that is not cured within thirty (30) days after delivery to such Member of a Notice of Breach.

Breaching Member” shall mean any Member that has committed any Breach of this Agreement.

Capital Account” shall mean, with respect to each Member, the Capital Account maintained for such Member to which there shall be credited such Member’s Capital Contributions, such Member’s distributive share of Net Profits, and any items in the nature of income or gain which are specially allocated pursuant to Section 8.5 or Section 8.6 hereof, and the amount of any Company liabilities assumed by such Member or which are secured by any Property distributed to such Member, and to which there shall be debited the amount of cash and the value of any Property distributed to such Member pursuant to any provision of this Agreement, such Member’s distributive share of Net Losses and any items in the nature of expenses or losses which are specially allocated pursuant to Section 8.5 or Section 8.6 hereof, and the amount of any liabilities of such Member assumed by the Company or which are secured by any property contributed by such Member to the Company.

The foregoing and other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations.

Capital Contribution” shall mean, with respect to any Member, the amount of money and the value of any property (other than money) contributed to the Company with respect to the Membership Interest held by such Member. The initial Capital Contribution of each Member is set forth on Exhibit A.

Code” shall mean the Internal Revenue Code of 1986, as amended from time to time.

Company” shall mean Eye Surgery Center of Knoxville, LLC, the limited liability company formed under this Agreement pursuant to the Act.

Company Minimum Gain” has the same meaning as partnership minimum gain set forth in Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

Compensation” shall mean amounts paid to or for the benefit of Members as compensation or benefits for services rendered by them in their capacities as members, officers, managers, directors or agents.

Disability” under this Agreement shall occur as to a Member if a Majority in Interest of the Company’s remaining Members, exclusive of the voting power held by the affected Member, so



determine. The remaining Members shall determine the issue of whether a Member is totally disabled promptly upon request by a Member or by the affected Member, or his personal representative. If the affected Member or his personal representative protests the determination made by the Members, then such Member shall be deemed to have a "Disability" if a disinterested licensed physician in the State of Tennessee reasonably acceptable to the remaining Members and the affected Member (or his personal representative) makes such a determination.

"Financial Rights" shall mean a Member's rights to share in profits and losses, distributions, to receive interim distributions and liquidation distributions as provided in this Agreement and the Act, and the right to transfer Financial Rights.

"Fiscal Year" shall mean the twelve-month period selected by the Company as its annual accounting period.

"Governance Rights" shall mean a Member's right to vote on one (1) or more matters, all of a Member's other rights as a member in the Company under the LLC Documents or the Act, other than Financial Rights, and the right to transfer the foregoing Governance Rights.

"LLC Documents" shall mean the Articles and this Agreement.

"Majority in Interest" shall mean the Percentage Interests in Governance Rights of one or more Members entitled to vote on a particular matter which (taken together if more than one) exceed fifty percent (50%) of either (i) the aggregate Percentage Interests in Governance Rights held by Members constituting a quorum that are entitled to vote on such matter, or (ii) such greater or lesser amount of the aggregate Percentage Interests in Governance Rights held by Members as the context of this Agreement may require.

"Member" shall mean each of the Members identified on Exhibit A attached hereto and made a part hereof by this reference who have executed this Agreement and each of the parties who may hereafter become Members.

"Member Minimum Gain" means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i) with respect to "partner minimum gain."

"Member Nonrecourse Debt" has the meaning set forth in Regulations Section 1.704-2(b)(4) for the phrase "partner nonrecourse debt."

"Membership Interest" shall mean, with respect to each Member, such Member's interest in the Company consisting of such Member's Financial Rights and Governance Rights.

"Net Cash Flow" means the gross cash proceeds of the Company less the portion thereof used to pay or establish reserves for all Company expenses (such expenses to include without limitation all Compensation), debt payments, capital improvements, replacements, and contingencies, all as determined by the Members. "Net Cash Flow" shall not be reduced by depreciation, amortization, or similar allowances.

"Net Profits" or "Net Losses," for each Fiscal Year or other period, means the net profit or net loss of the Company determined in accordance with the accounting methods in use by the Company as

reasonably determined by the Members, after taking into account the special allocation set forth in Sections 8.5 and 8.6.

**"Non-Adverse Termination"** means with respect to any Member and its Membership Interest: if a Member that is an individual dies, suffers a Disability, or otherwise becomes adjudged incompetent by any court.

**"Nonrecourse Debt"** has the meaning set forth in Regulations Sections 1.704-2(b)(3) and 1.752-1(a)(2).

**"Nonrecourse Deductions"** has the meaning set forth in Regulations Sections 1.704-2(b)(1) and 1.704-2(c).

**"Notice of Breach"** shall mean a written notice describing a Member's Breach of this Agreement with reasonable specificity and executed by a Majority in Interest of all Members, excluding, however, the Percentage Interest in Governance Rights held by the Breaching Member.

**"Officers"** shall mean, collectively, the President, the Secretary-Treasurer, and each other officer, elected by the Members pursuant to Section 10.2 below. **"Officer"** shall mean, individually, any such person.

**"Percentage Interest in Financial Rights"** shall, with respect to any Member, be as set forth on Exhibit A hereto. If all or any portion of a Membership Interest is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Percentage Interest in Financial Rights of the transferor to the extent it relates to the transferred Membership Interest and/or Financial Rights.

**"Percentage Interest in Governance Rights"** shall, with respect to any Member, be as set forth on Exhibit A hereto. For voting purposes, a Member's Percentage Interest in Governance Rights shall be deemed to be his Percentage Interest in Governance Rights in the Company as set forth on Exhibit A notwithstanding any special allocations to such Member pursuant to Sections 7 or 8. If all or any portion of a Membership Interest is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Percentage Interest in Governance Rights of the transferor to the extent it relates to the transferred Membership Interest and/or Financial Rights.

**"Prime Rate"** shall mean the rate, denoted as such, published as the base rate on corporate loans at large U.S. money center commercial banks in The Wall Street Journal under "Money Rates" on the applicable date.

**"Property"** shall mean all property, real or personal, tangible or intangible, including money and any legal or equitable interest in property owned by the Company.

**"Regulations"** shall mean the Income Tax Regulations, including Temporary Regulations, promulgated under the Code, as such regulations may be amended from time to time.

**"Related Person"** shall mean a person having a relationship to a Member that is described in §1.752-4(b) of the Regulations.

**"Triggering Event"** shall include a Member's Non-Adverse Termination or Adverse Termination.

**"Year of Termination"** shall mean the year in which the Company is liquidated and final distributions are made to Members and any other year in which the Company disposes of substantially all of its assets in a transaction made in the ordinary course of business.

## **SECTION 2 FORMATION AND TERM**

### **Section 2.1 – Articles of Organization.**

The date of formation and existence of the Company shall be May 24, 2016, the date of filing of the Articles with the Secretary of State of Tennessee.

### **Section 2.2 – Name**

The name of the Company is Eye Surgery Center of Knoxville, LLC. All business of the Company shall be conducted under that name or under any other name adopted by the Members in accordance with the Act.

### **Section 2.3 – Principal Place of Business**

The principal place of business of the Company within the State of Tennessee shall be 7800 Conner Road, Powell, Tennessee 37849. The Company may locate to, and have such other, places of business and registered office as the Members shall, from time to time, deem advisable.

### **Section 2.4 – Term**

The Company shall continue in perpetuity unless the Company shall be dissolved and its affairs wound up in accordance with the Act or this Agreement.

## **SECTION 3 PURPOSE OF THE COMPANY**

Except as specifically limited in the Articles, the purpose of the Company is to operate an ambulatory surgery center (the “ASC”) and all services related thereto in compliance with applicable federal and state laws, rules and regulations. In addition, the Company may engage in any and all other lawful business activities whatsoever, or which shall be conducive to or expedient for the protection or benefit of the Company, the ASC, or Company’s Property, and the Company may exercise all powers necessary to, connected with, or incident to the accomplishment of any business that may lawfully be conducted by limited liability companies under the Act. The Members of the Company acknowledge that the Company has been structured to operate a single specialty ophthalmic ASC in compliance with the requirements of the applicable safe harbor for such single specialty ophthalmic ASCs under the federal Anti-Kickback Statute (42 CFR 1001.952(r)(2)) (the “AKS”).

## **SECTION 4 ACCOUNTING, RECORDS, AND REPORTS**

### **Section 4.1 – Books and Records**

(a) The Company shall provide Members, and their agents and attorneys, access to its records at the principal executive office of the Company. The Company shall provide former Members, and their agents and attorneys, access to records for proper purposes pertaining to the periods during which they were Members. The foregoing right of access shall consist of the opportunity to inspect or copy records during ordinary business hours, if the Member, or its agent or attorney, gives the Company written notice of such demand at least five (5) business days before the date on which the Member, or its

agent or attorney, wishes to inspect or copy such records. The Company may impose a reasonable charge, limited to the costs of labor and material, for copies of records furnished under this Section 4.1.

(b) The Company shall furnish to a Member and to the personal representative of a deceased Member or Member under legal disability:

(i) Without demand, information concerning the Company's business or affairs reasonably required for the proper exercise of the Member's rights and performance of the Member's duties under this Agreement, the Articles or the Act; and

(ii) On written demand, other information concerning the Company's business or affairs, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

(c) The Company shall keep, at its principal executive office or at another place or places within the United States determined by the Members:

(i) A current list of the full name and last known business, residence, or mailing address of each Member, and each officer, if any, of the Company together with the taxpayer identification number of each Member of the Company;

(ii) A current list of the full name and last known business, residence, or mailing address of each holder of Financial Rights of the Company, and a description of the Financial Rights held, together with the taxpayer identification number of each holder of Financial Rights of the Company;

(iii) A copy of the Articles of the Company and all amendments to the Articles;

(iv) A copy of the currently effective operating agreement of the Company;

(v) Copies of the Company's federal, state, and local income tax returns and reports, if any, for the three (3) most recent years;

(vi) Financial information sufficient to provide true and full information regarding the status of the business and financial condition of the Company for the three most recent fiscal years;

(vii) Records of all proceedings of the Members of the Company;

(viii) Any written consents obtained from the Members of the Company;

(ix) A statement of all contributions accepted by the Company under § 48-249-301 of the Act, the identity of the contributor, and the agreed value of each contribution;

(x) A copy of all contribution agreements created under § 48-249-301 to which the Company is bound; and

(xi) A copy of the Company's most recent annual report filed with the secretary of state under § 48-249-1017 of the Act.

#### **Section 4.2 – Tax Information**

Within ninety (90) days after the end of each Fiscal Year, without demand, the Company shall send to each owner of a Membership Interest and/or Financial Rights in the Company at any time during the Fiscal Year then ended such tax information as shall be reasonably required for such owner to comply with the requirements of either federal or state tax laws concerning such owner's Financial Rights, if any, including without limitation all information reasonably required for the preparation by such owner of his federal income tax return, and state income and other tax returns with regard to jurisdictions in which the Company is formed or qualified.

#### **Section 4.3 – Tax Matters Member**

The Tax Matters Member shall have all the powers provided to a tax matters partner in Sections 6221 through 6233 of the Code, including the specific power to extend the statute of limitations with respect to any matter which is attributable to any Company item or affecting any item pending before the Internal Revenue Service and to select the forum to litigate any tax issue or liability arising from Company items.

The Tax Matters Member shall be the Member designated as such on Exhibit A. The Tax Matters Member may resign his position by giving thirty (30) days written notice to all Members, whereupon the Members shall designate a new Tax Matters Member.

The Tax Matters Member shall be entitled to reimbursement for any and all reasonable expenses incurred with respect to any administrative and/or judicial proceedings affecting the Company.

### **SECTION 5**

#### **MEMBERSHIP INTERESTS; MEMBER ELIGIBILITY**

**Section 5.1 – Identity and Contribution.** The (a) identity of all of the Members and the Membership Interests held by each, and (b) the amount of cash and a description and statement of the agreed value of any other property or services contributed for each Membership Interest, are as reflected on Exhibit A attached hereto and by this reference made a part hereof as if set forth fully herein, which shall be promptly amended as necessary, under the Act, to reflect any changes in such information.

**Section 5.2 – Member Eligibility.** Only individuals who meet the following requirements shall be eligible to become a member of Company:

(i) Such individual must be licensed to practice as a physician in the State of Tennessee specializing in ophthalmology;

(ii) At least 1/3 of such individual's medical practice income from all sources for the previous fiscal year or previous 12 month period must be derived from the individual's performance of procedures that require an ASC or hospital surgical setting in accordance with Medicare reimbursement rules; and

(iii) Such individual agrees to provide an attestation to Company which demonstrates that such individual discloses his membership interest in Company to any patients referred to the ASC by such individual or any group or entity controlled by such individual.

In no event shall any individual be admitted as a Member if the admission of such Member would, in the opinion of Company counsel, adversely affect the Company's ability to comply with the safe harbor for single specialty ASCs under the AKS.

## **SECTION 6 CONTRIBUTIONS AND CAPITAL ACCOUNTS**

### **Section 6.1 – Initial Contributions**

Each Member has made, or shall make, the initial Capital Contribution described for that Member on Exhibit A.

### **Section 6.2 – No Interest on or Demand for Return of Contributions**

No Member shall be entitled to receive any interest on his or its Capital Contributions or Capital Account balance, or to have the right to demand the return of his or its contribution to the capital of the Company. No Member shall have the right to demand receipt of Property other than cash in return for such Member's Capital Contribution.

### **Section 6.3 – Additional Funds and Adjustments**

(a) **Call for Funds.** The Members recognize that the Company may require additional funds to pay the costs of conducting its business and operating its properties. If, in the judgment of a Majority in Interest of the Members, additional capital funds are required to pay such costs, the additional funds shall be called for by the Company (the "Call for Funds") and shall be contributed by the Members in proportion to their Percentage Interests.

(b) **Default by Members.** If a Member is unable or unwilling to make any or all of his proportionate contribution upon a Call for Funds (the "Defaulting Member"), upon notice from the Company to such Defaulting Member of such default and the lapse of thirty (30) days from the date of such notice without the Defaulting Member curing the default, then, in addition to such other rights and remedies as may otherwise be available to the Company or the non-defaulting Members, the non-defaulting Members may, at the election of a Majority in Interest of the non-defaulting Members (exclusive of the voting power of the Defaulting Member) (exercisable at any time subsequent to thirty (30) days from the date of the afore-described notice), do either (or neither) of the following:

(i) The non-defaulting Members may advance to the Company the funds required of the Defaulting Member pursuant to the Call for Funds as a personal loan by the non-defaulting Members to the Defaulting Member. Such loan shall bear interest at a rate equal to the highest lawful rate from time to time. In such event, all distributions or other payments from the Company which would otherwise be distributed to the Defaulting Member shall be distributed first in order to reduce interest and then principal under such loan. If such loan is not repaid, together with all accrued interest thereon, within six (6) months of the date such funds are advanced by the non-defaulting Members for the benefit of the Defaulting Member, then the non-defaulting Members shall have the option to acquire the entire interest of the Defaulting Member in the Company upon giving five (5) days' written notice to that effect to the Defaulting Member. This option shall exist until such time as (A) the Defaulting Member is no longer in default as provided in this Section 6.3(b) and (B) all loans advanced by the non-defaulting Members are paid in full together with all interest accrued thereon. The consideration for such purchase and the payment terms shall be as provided in Section 12 and Exhibit B as to a Breaching Member.

(ii) The non-defaulting Members may make a contribution in excess of their Percentage Interests in Financial Rights, in which event the Percentage Interest in Financial Rights and Percentage Interest in Governance Rights of the Defaulting Member in Company capital, profits, losses and all other attributes shall be reduced to that portion which the Capital Contributions of the Defaulting

Member, including any Call for Funds paid by such Defaulting Member, bears to the aggregate of all Capital Contributions, including Calls for Funds paid by all Members to the Company.

(c) **Restricted Authority.** During any period in which a Member is a Defaulting Member, such Member shall not have the authority to act on behalf of the Company, all management powers of the Company shall be vested in the non-defaulting Members, and such Member shall be a Breaching Member for all purposes under Sections 12 and 15; provided, however, that a Majority in Interest of the Members (exclusive of the voting power of the Defaulting Member) may authorize any such Defaulting Member to act on behalf of the Company.

## **SECTION 7 DISTRIBUTIONS**

### **Section 7.1 – Distribution to Pay Taxes**

Subject to the existence of sufficient Net Cash Flow, and unless the Members unanimously determine otherwise, the Company shall distribute cash to the Members as provided in this Section 7.1 prior to April 15 following the close of each calendar year. If the federal and state income taxes that will be owed by any Member with respect to such year (computed as if such Member were an individual subject to federal, state, and/or local income tax at the highest marginal rate for ordinary income of individuals and to the maximum rate on capital gains of individuals in the relevant jurisdictions) on any taxable income of the Company allocated to such Member pursuant to this Agreement for the year are greater than the cumulative amount of distributions made to such Member pursuant to this Section 7 (other than this Section 7.1) during such year, then the Company shall distribute additional cash to such Member in an amount equal to such excess. Any distribution made to a Member pursuant to this Section 7.1 shall be treated as an advance of future amounts otherwise distributable to such Member pursuant to this Section 7 (excluding this Section 7.1) and shall be recouped from the first such future distributions.

### **Section 7.2 – Distribution of Net Cash Flow**

Except as specifically provided otherwise in this Agreement, Net Cash Flow shall be distributed to the Members proportionately in accordance with their respective Percentage Interests in Financial Rights at such times as a Majority in Interest of Members may determine from time to time.

### **Section 7.3 – Distributions Upon Liquidation**

Notwithstanding the provisions of this Section 7, distributions made in conjunction with the winding up and liquidation of the Company shall be applied or distributed as provided in Section 17.3 hereof.

### **Section 7.4 – Reserves and Working Capital**

Subject in all events to the Act, a Majority in Interest of the Members may determine that a reserve be set aside for contingencies.

### **Section 7.5 – Expense Reimbursement**

Subject to the approval of a Majority in Interest of Members, each Member shall be reimbursed for all direct expenses reasonably incurred by him or her in regard to the management of the Company.

## **SECTION 8 ALLOCATIONS**

### **Section 8.1 – Allocation of Net Loss**

After giving effect to the special allocations set forth in Section 8.5 and Section 8.6, any Net Loss of the Company, and each item of income, gain, loss, deduction, and credit related thereto, for each year of the Company's operations (except for a Year of Termination) shall be allocated as set forth in Section 8.1(a), subject to the limitation in Section 8.1(b):

(a) Net Loss for any fiscal year shall be allocated to the Members in proportion to their Percentage Interests in Financial Rights.

(b) The Net Losses allocated pursuant to Section 8.1(a) shall not exceed the maximum amount of losses that can be so allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any fiscal year. All losses in excess of the limitations set forth in this Section 8.1(b) shall be allocated as follows:

(i) Among the Members who may receive such an allocation without causing such Members to have an Adjusted Capital Account Deficit at the end of any fiscal year in proportion to their Percentage Interests in Financial Rights; and then

(ii) Among all the Members in proportion to their Percentage Interests in Financial Rights.

### **Section 8.2 – Allocation of Net Profits**

After giving effect to the special allocations set forth in Section 8.5 and Section 8.6, Net Profits of the Company, and each item of income, gain, loss, deduction and credit related thereto, for each year of the Company's operations (except for the Year of Termination) shall be allocated to and among the Members in proportion to their Percentage Interests in Financial Rights.

### **Section 8.3 – Allocations in Connection with Liquidations**

Notwithstanding the allocation provisions set forth in Sections 8.1 and 8.2, but subject to Sections 8.5 and 8.6, all Net Profits or Net Loss realized in connection with the dissolution of the Company (whether or not realized in the Year of Termination) shall be allocated to the Members in a manner so that the distributions to each Member pursuant to Section 7.3 and Section 17.3 hereof shall, to the greatest extent possible, be equal to that amount that each such Member was to receive under Section 7.2 if the amounts to be distributed by the Company in connection with such dissolution were instead distributed under such Section 7.2.

### **Section 8.4 – Allocation of Profit and Loss on Transfer of Membership Interest**

The Net Profits or Net Losses allocable to any Financial Rights in the Company which may have been transferred during any year shall be allocated on the basis of the results of Company operations during the period in which the holder was recognized as the owner thereof as if the Company books had been closed on the date of transfer.



### **Section 8.5 – Special Allocations**

Capitalized terms used in this section not otherwise defined in this Agreement shall have the meaning set forth in the applicable Treasury Regulations.

(a) **Qualified Income Offset.** If a Member unexpectedly receives any adjustments, allocations, or distributions described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.704-1(b)(2)(ii)(d)(6), items of Company income (including gross income) and gain shall be specially allocated to the Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of the Members as quickly as possible, provided that an allocation pursuant to this Section 8.5(a) shall be made only if and to the extent that the Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Section 8.5 have been tentatively made as if this Section 8.5(a) were not in the Agreement.

(b) **Minimum Gain Chargeback.** Notwithstanding any other provision of this Section 8, if there is a net decrease in Company Minimum Gain during any Fiscal Year, each Member shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in such amounts that comply with the minimum gain chargeback requirement in Section 1.704-2(f) of the Regulations.

(c) **Member Minimum Gain Chargeback.** Notwithstanding any other provision of this Section 8 except Section 8.5(b), if there is a net decrease in Member Minimum Gain attributable to a Member Nonrecourse Debt during any Company Fiscal Year, each Member who has a share of the Member Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) in such amounts that comply with the partner minimum gain chargeback requirement in Regulations Section 1.704-2(i)(4).

(d) **Nonrecourse Deductions.** Nonrecourse Deductions and Member Nonrecourse Deduction (each as defined in the Regulations) for any Fiscal Year or other period shall be specially allocated among the Members in proportion to their Percentage Interests in Financial Rights.

### **Section 8.6 – Curative Allocation**

The special allocations set forth in Section 8.1(b) and Section 8.5 hereof (the “Regulatory Allocations”) are intended to comply with certain requirements of the Regulations. Notwithstanding any other provisions of this Section 8 (other than the Regulatory Allocations), the Regulatory Allocations shall be taken into account in allocating other profits, losses, and items of income, gain, loss, and deduction among the Members so that, to the extent possible, the net amount of such allocations of other profits, losses, and other items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to each such Member if the Regulatory Allocations had not occurred.

### **Section 8.7 – Tax Allocations: Code Section 704(c)**

In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted tax basis of such property to the Company for federal income tax purposes and its fair market value upon contribution. If the value of any Company asset is adjusted in accordance with the Regulations, subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take account

of any variation between the adjusted basis of such asset for federal income tax purposes and its fair market value in the same manner as under Code Section 704(c) and the Regulations thereunder. Any elections or other decisions relating to such allocations shall be made by the Tax Matters Member in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this section are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Net Profits, Net Losses, other items, or distributions pursuant to any provision of this Agreement.

## **SECTION 9 MEMBERS**

### **Section 9.1 – Special Meetings**

Special Meetings of the Members may be called by, the Secretary, the President or any Member by signing, dating, and delivering to the Secretary or other Members written demand for the meeting describing the purpose or purposes for which it is to be held. Special Meetings must be held in the county where the Company's principal executive office is located.

### **Section 9.2 – Notice of Meetings**

Written notice of the date, time, and place of each meeting and, in the case of a Special Meeting, a statement of the purpose or purposes of the meeting, shall be given to each Member entitled to notice of such meeting not less than ten (10) days nor more than two (2) months before the meeting date. Unless otherwise required under the Act, the Company shall give notice only to Members entitled to vote at the meeting. Notice shall be in writing and shall be communicated by mail, facsimile, electronic mail or overnight carrier. If mailed, written notice by the Company to the Members, if in a comprehensible form, shall be effective when mailed, if mailed by registered or certified mail, postage prepaid and correctly addressed to the Member's address shown in the Company's current record of Members. If not mailed, written notice, if in a comprehensible form, shall be effective when received. If a meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, or place is announced at the time of adjournment. However, if a new record date for the adjourned meeting is or must be fixed, notice of the adjourned meeting must be given to persons who are Members as of the new record date.

### **Section 9.3 – Actions Without a Meeting**

(a) Unless the Articles provide otherwise, any action required or permitted to be taken at a meeting of the Members may be taken without a meeting. Any action taken pursuant to subsection (b) hereof shall have the effect of a meeting and vote and may be described as such in any document. Any requirement under the Act or this Agreement for action at a meeting will be satisfied by an action taken in accordance with subsection (b) hereof. If any provision of the Act, the Articles or this Agreement requires that notice of proposed action be given to Members not entitled to vote and the action is to be taken by voting Members pursuant to subsection (b) hereof, then the Company must give its Members not entitled to vote written notice of the proposed action at least ten (10) days before action on written consent is taken. The notice must contain or be accompanied by the same material that would have been required to be sent to Members not entitled to vote in a notice of meeting at which the proposed action would have been submitted to the Members for action.

(b) To take action on written consent, a written consent must be signed by Members who own Membership Interests with voting power equal to the voting power that would be required to take the same action at a meeting of the Members at which all Members are present. The action must be evidenced

by one (1) or more instruments evidencing the consent, which shall be included in the records of the Company. All such instruments may be signed in counterparts. If not otherwise determined under Section 9.5 of this Agreement or the Act, the record date for determining Members entitled to take action without a meeting is the date the first Member signs the consent.

#### **Section 9.4 – Waiver of Notice**

A Member may waive any notice required by the Articles, this Agreement or the Act. A waiver of notice by a Member entitled thereto is effective, whether given before or after the meeting or other balloting, if the waiver is in writing. If a written waiver is given, such written waiver shall be included in the records of the Company. A Member's attendance at a meeting is a waiver of notice of that meeting, unless the Member objects at the beginning of the meeting (or promptly upon his arrival) to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item may not lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting. The Secretary shall note the objection in the minutes of the meeting.

#### **Section 9.5 – Fixing of Record Date**

A Majority in Interest of the Members may fix the record date for one (1) or more voting groups in order to determine the Members entitled to notice of a Members' meeting, to demand a special meeting, to vote, or to take any other action. (As used in this Agreement, "voting group" shall mean all Membership Interests of one (1) or more classes or series that under the Articles, this Agreement or the provisions of the Act are entitled to vote and be counted together collectively on a matter at a meeting of Members.) However, a record date shall not be more than seventy (70) days before the meeting or action requiring a determination of Members. If not otherwise fixed hereunder, the record date for determining Members entitled to notice of and to vote at a special Members' meeting shall be the close of business on the business day before the first notice is delivered to Members, and the record date for determining Members entitled to demand a special meeting shall be the date the first Member signs the demand. A determination of Members entitled to notice of or vote at a Members' meeting shall be effective for any adjournment of the meeting unless a Majority in Interest of the Members fixes a new record date, which they must do if the meeting is adjourned to a date more than four (4) months after the date fixed for the original meeting.

#### **Section 9.6 – Quorum**

Except as otherwise provided in the Act or in the LLC Documents, Members holding a majority of the voting power of Membership Interests entitled to vote at a meeting are a quorum for the transaction of business. Once a Membership Interest is represented for any purpose at a meeting, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

#### **Section 9.7 – Proxies**

Subject to the provisions of the Act, a Member may vote in person or by proxy. A Member may appoint a proxy to vote or otherwise act for him by signing an appointment form, either personally or by his attorney-in-fact. An appointment of proxy shall be effective when received by the Secretary or other officer or any agent authorized to tabulate votes. An appointment shall be valid for eleven (11) months unless another period is expressly provided in the appointment form. An appointment of a proxy shall be revocable by the Member unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest.

### **Section 9.8 – Voting Entitlement to Membership Interests**

Unless the Articles or Act provide otherwise, and except as expressly provided otherwise in this Agreement, each outstanding Membership Interest, regardless of class, shall be entitled to exercise a percentage voting power equal to that Member's Percentage Interest in Governance Rights on each matter voted on at a Members' meeting. Only Membership Interests shall be entitled to vote. Redeemable Membership Interests shall not be entitled to vote after notice of redemption is mailed to the holders and a sum sufficient to redeem the Membership Interests has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the Membership Interests, and no such Membership Interests shall be counted in determining the total number of outstanding Membership Interests of the Company at any given time. Membership Interests standing in the name of another corporation, partnership or limited liability company, domestic or foreign, may be voted by such officer, partner, agent, manager or proxy as the By-Laws, partnership agreement or operating agreement of such corporation, partnership, or limited liability company may prescribe or, in the absence of a By-Law, operating or partnership agreement provision, as the Board of Directors, partners or Governors (or, in the case of a member-managed limited liability company, the members) of such corporation or limited liability company may determine, as applicable. The Company may rely on the representation of such officer, partner, agent, manager or proxy as to the authority unless such authority is questioned. Except where the Act or the LLC Documents require a larger proportion, the Members shall take action by the affirmative vote of the Members holding a majority of the voting power present and entitled to vote on that item of business in a meeting in which a quorum is present.

### **Section 9.9 – Discharge of Duties; Noncompetition**

A Member shall discharge his duties as a Member in accordance with the provisions of the Act, except that each Member may engage in whatever activities such Member may choose, subject to the noncompetition provision below, without having or incurring any obligation to offer any interest in such activities to the Company or any party hereto, and each Member hereby waives, relinquishes, and renounces any such right or claim of participation. It is the intention of the Members to hereby waive any obligation to refrain from competing with the Company imposed by T.C.A. § 48-249-403(b)(3), except as follows:

(a) While a Member of Company, no Member shall, directly or indirectly, on such Member's behalf or on behalf of any other person or entity, other than at the direction of Company and on behalf of Company: (i) organize, own any interest in or operate an ambulatory surgery center in Knox County, Tennessee; (ii) perform any professional services at, an ambulatory surgery center in Knox County, Tennessee; or (iii) assist any person or entity (as a director, officer, employee, agent, consultant, lender, lessor or otherwise) to organize, own or operate an ambulatory surgery center in Knox County, Tennessee; and

(b) For a period of one (1) year after any termination of such Member's Membership Interest, no Member shall, directly or indirectly, on such Member's behalf or on behalf of any other person or entity: (i) organize, own any interest in or operate an ambulatory surgery center in Knox County, Tennessee; or (ii) assist any person or entity (as a director, officer, employee, agent, consultant, lender, lessor or otherwise) to organize, own or operate an ambulatory surgery center in Knox County, Tennessee.

### **Section 9.10 – Member Guarantees**

Each Member agrees to personally guarantee the Company's debt and other obligations in the manner and amount required by any vendor, lender or financial institution.

## **SECTION 10 OFFICERS**

### **Section 10.1 – Powers**

The day to day management and control of the Company, and its business and affairs, shall be conducted or exercised by, or under the direction and authority of, the officers. The officers shall have the rights, powers and duties which may be possessed by officers under the Act, and such other rights, powers, and duties specified in this Agreement or designated by the Members, or which are necessary, advisable or convenient to the discharge of their duties under this Agreement.

### **Section 10.2 – Election and Term**

At any special meeting of the Members called for that purpose, a Majority in Interest of the Members shall elect a President and a Secretary and such other officers as the Members may determine, who may include one or more vice presidents, a treasurer, a controller and one or more assistant treasurers, and assistant secretaries. Each officer shall serve until his successor is elected and qualified or until his earlier resignation or removal as set forth in Section 10.5. Any number of offices may be held by the same person.

### **Section 10.3 – Duties**

The duties and powers of the officers shall be as follows:

(a) **President**. The President shall be the chief executive officer of the Company, and, as such, shall be primarily responsible for the general management of the business of the Company and for implementing the policies and directives of the Members. The President shall have authority to make contracts on behalf of the Company in the ordinary course of the Company's business, shall preside at all meetings of the Members and shall perform such other duties as from time to time may be assigned by the Members.

(b) **Secretary-Treasurer**. The Secretary-Treasurer shall attend all meetings of the Members and shall prepare minutes or records of proceeding of all such meetings in a book to be kept for that purpose. The Secretary shall give, or cause to be given, such notices as may be required of all meetings of the Members, shall authenticate and certify records and proceedings of the Company, shall keep accurate membership records for the Company, shall supervise the financial operations of the Company, and shall perform such other duties as may be assigned by the President or the Members, if any.

(c) **Discharge of Duties**. An officer shall discharge the duties of an office in accordance with the provisions of the Act.

### **Section 10.4 – Compensation**

The salaries and other compensation of the officers shall be as determined by a Majority in Interest of the Members from time to time.

### **Section 10.5 – Removal**

A Majority in Interest of the Members may remove any officer at any time, with or without cause, but no such removal shall affect the contract rights, if any, of the person so removed.

### **Section 10.6 – Resignation**

An officer may resign at any time by delivering written notice to the Company. A resignation is effective without acceptance when the notice is delivered to the Company, unless the notice specifies a later effective date. If a resignation is made effective at a later date and the Company accepts the future effective date, the Members may fill the pending vacancy before the effective date if it provides that the successor does not take office until the effective date. An officer's resignation does not affect the Company's contract rights, if any, with the officer.

## **SECTION 11 INDEMNIFICATION**

Subject to any limitations set forth in the LLC Documents, the Company shall indemnify and advance expenses to each present and future Member or Officer of the Company acting within the scope of their authority as a Member or Officer (and, in either case, his heirs, estate, personal representatives or administrators) to the full extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted. The Company may indemnify and advance expenses to any employee or agent of the Company who is not a Member or Officer (and his heirs, estate, personal representatives or administrators) to the same extent as to a Member or Officer, if a Majority in Interest of the disinterested Members determine that it is in the best interests of the Company to do so. Subject to the restrictions set forth in T.C.A. §§ 48-249-115(i)(1)(A), (B) or (C), the Company shall also have the power to contract with any individual Member, Officer, employee, or agent for whatever additional indemnification a Majority in Interest of the Members shall deem appropriate.

## **SECTION 12 DISPOSITION OF MEMBERSHIP INTERESTS**

### **Section 12.1 – Restrictions on Transfer**

(a) **General Restriction on Transfer.** Except as otherwise permitted by this Agreement, no Member and no person who acquires an interest in or legal or beneficial title to all or any part of a Membership Interest in the Company (a "**Transferee**") (i) by a voluntary transfer of such Membership Interest from a Member (such transfer being referred to herein as a "**Voluntary Transfer**" and such transferee as a "**Voluntary Transferee**") or (ii) by virtue of any transfer or disposition thereof under judicial order, legal process, execution, attachment, or enforcement of a pledge, trust or other security interest or by operation of law (such transfer being referred to herein as an "**Involuntary Transfer**" and such transferee as an "**Involuntary Transferee**"), may sell, assign, pledge, hypothecate, give, bequeath or otherwise transfer or dispose of (the foregoing hereinafter collectively referred to as a "**Transfer**") all, or any portion, of an interest presently held, or hereafter acquired, by such Member or Transferee unless such Transfer is effected as provided herein and in the other provisions of this **Section 12**. If any Transfer of an interest in the Company is made to an incompetent, including but not limited to a minor, the personal representative of such incompetent shall be entitled to, and shall, act on behalf of such incompetent in complying with the provisions of this Agreement.

(b) **Absolute Restriction on Transfer.** Notwithstanding anything herein to the contrary, no Member or Assignee (including without limitation a Transferee) may Transfer all or a portion of the Member's or Assignee's Membership Interest unless such Transfer complies with the provisions of this Agreement and the Act, including without limitation the provisions of this **Section 12**. No Transfer of a Membership Interest may be made: (i) without an opinion of counsel satisfactory to the Members that such Transfer is subject to an effective registration under, or exempt from the registration requirements

of, the applicable state and federal securities laws; (ii) unless and until the Company receives a legal opinion from healthcare regulatory counsel that the Transfer to the proposed Transferee or Assignee does not adversely affect Company's qualification for safe harbor protection for single specialty ambulatory surgery centers under the federal Anti-Kickback Statute ; (iii) unless and until the Company receives from the Assignee the information and agreements that the Members may reasonably require, including but not limited to any taxpayer identification number and any agreement that may be required by any taxing jurisdiction; (iv) unless and until the Transfer is approved by a Majority in Interest of the other Members, exclusive of the voting power held by the Member seeking to make the Transfer (in the event of a Transfer of Governance Rights to a person or entity not already a Member of the Company); and (v) unless and until the Member or Assignee seeking to make the disposition has complied with the buy-sell provisions set forth in this Section 12.

#### **Section 12.2 – Agreement of Transferees; Status of Transferee**

Notwithstanding the provisions of Sections 12.1(a) and 12.1(b), legal or beneficial title to any interest in the Company may not be Transferred to, or acquired by, any Transferee unless and until such Transferee has executed and delivered to the Company a counterpart to this Agreement evidencing such Transferee's consent to be bound by all of the terms of this Agreement. Any person whose admission to the Company shall have been approved shall become a substitute or additional Member only after (i) the above conditions with respect to execution of required instruments shall have been satisfied; and (ii) such person shall have paid all reasonable legal fees and filing costs in connection with his substitution as a substituted or additional Member; provided, however, that for purposes of allocating profits and losses and distributing cash and making additional capital contributions required hereunder, a person shall be treated as having become a Member on the date of the instruments of Transfer.

#### **Section 12.3 – Effect of Purported Transfer**

Any purported Transfer of a Membership Interest in violation of this Agreement shall be of no force or effect, and no such Transfer shall be made or recorded on the books of the Membership. Each Member agrees that monetary damages for violation of this Agreement is not an adequate remedy and, therefore, any Transfer or threatened Transfer in violation of this Agreement may and should be enjoined. Any purported Transfer in violation of this Agreement will not affect the beneficial ownership of a Membership Interest and the Member making the purported Transfer shall retain the right to share in, and shall be allocated, the profit, loss, Net Cash Flow of the Company as otherwise provided herein, and the Company shall continue as a limited liability company. Additionally, the Member making the purported Transfer shall continue to report his share of profit, gain or loss of the Membership in accordance with the applicable provisions of the Code.

#### **Section 12.4 – Sale on Triggering Event**

(a) Triggering Event. In the event of the occurrence of any Triggering Event as to a Member (the "Affected Member"), unless the Company is dissolved, the Company shall purchase all of the Membership Interest owned by the Affected Member, and the Affected Member shall sell such Membership Interest to the Company as provided herein. The purchase price for the Membership Interest to be sold hereunder shall be an amount equal to the Agreed Value of such Membership Interest (as defined in Section 12.4(b)). The Agreed Value shall be determined pursuant to the method described in this Agreement and shall be final and binding on the Members and the Company. At the closing, the Agreed Value shall be paid in the manner described in Section 12.4(c) against delivery of duly executed documents of sale, transfer, and assignment as may be reasonably necessary or appropriate to evidence the Transfer of such Membership Interest free and clear of any encumbrances, liens or restrictions of any nature (other than the restrictions created by the LLC Documents or the Act), and, upon such closing, the



Company and all of the Members, including the Affected Member, or his personal representative, shall execute, acknowledge, deliver, file, and record in all appropriate public offices such written instrument or instruments as may be required by applicable law to evidence the withdrawal of the Affected Member and the purchase of his Membership Interest by the Company.

(b) Agreed Value. The Agreed Value (the "Agreed Value") of any Membership Interest to be Transferred pursuant to Section 12.4(a) above shall be determined as set forth on Exhibit B attached hereto and incorporated by reference herein. The Agreed Value shall be calculated as of the end of the calendar month immediately preceding the date of the Triggering Event or Breach, as applicable. (For example, if a Triggering Event occurred on November 12, the Agreed Value would be determined as of the immediately preceding October 31.) The selling Member shall be informed of such Agreed Value not later than the thirtieth (30<sup>th</sup>) day following the occurrence of a Triggering Event, with respect to a Transfer under Section 12.4(a).

THE COMPANY AND THE MEMBERS HEREBY WAIVE THE PROVISIONS OF T.C.A. § 48-249-506 AS TO THE DETERMINATION AND PAYMENT OF "FAIR VALUE" FOR ANY MEMBERSHIP INTEREST TO BE TRANSFERRED PURSUANT TO SECTION 12.4(a) AND AGREE THAT THE FAIR VALUE OF ANY SUCH MEMBERSHIP INTEREST SHALL BE ITS "AGREED VALUE" TO BE DETERMINED AND PAID AS SET FORTH IN THIS AGREEMENT.

(c) Payment of Purchase Price. The Purchase Price of any Membership Interest sold under Section 12.4(a) shall, except as otherwise agreed, be payable by execution and delivery of a Promissory Note ("Note") bearing interest at an annual rate equal to the Prime Rate plus 1%. Such Note shall be amortized over sixty (60) equal monthly payments of principal and interest at the aforesaid rate. Such Promissory Note shall be secured by a collateral assignment of the Membership Interests being purchased (unless the sale follows a Member's Adverse Termination or Breach, in which event no security shall be required for such Note). Such Promissory Note and collateral assignment shall be in form and substance reasonably satisfactory to the parties. In addition, the purchaser(s) of any Membership Interest under Section 12.4(a) shall use good faith efforts to have the selling Member released from (and shall indemnify and hold harmless the selling Member from and against any liability under) any guaranty by the selling Member of any Company debts and obligations (unless the sale follows a Member's Adverse Termination or Breach in which event the purchaser(s) have no such obligation to attempt to obtain the selling Member's release from any such guaranty). Such closing shall occur on or before the ninetieth (90<sup>th</sup>) day following occurrence of a Triggering Event, with respect to a Transfer under Section 12.4(a).

(d) Dissolution and Liquidation. Notwithstanding anything herein to the contrary, in lieu of the Company purchasing the Membership Interest of a Member as a result of a Triggering Event or a Breach, the Company may be dissolved and liquidated upon the approval of a Majority in Interest of the Company's remaining Members, exclusive of the voting power held by the Affected Member.

#### **Section 12.5 – Restrictions Applicable to Holders**

Any and all restrictions on Transfer (including without limitation Voluntary Transfer and/or Involuntary Transfer) and buy-sell rights and obligations imposed by or provided for in this Section 12 shall apply with equal force and effect to any Financial Rights owned by a holder.

### **SECTION 13 BINDING ON SUBSEQUENT MEMBERS**



The provisions of this Agreement shall be binding upon a person who hereafter becomes a Member without executing this Agreement if the new Member otherwise complies with the conditions for becoming a Member set forth in the LLC Documents.

## **SECTION 14 TERMINATION OF A MEMBER'S MEMBERSHIP INTEREST**

### **Section 14.1 – No Right to Withdraw**

A Member shall have neither the power nor the right to withdraw from the Company by express will or otherwise terminate the Member's Membership Interest in the Company. Each Member hereby agrees that the Members have entered into this Agreement based on their mutual expectation that all Members will continue as Members and carry out the duties and obligations undertaken by them under the LLC Documents. Each Member covenants and agrees that, without the consent of Majority in Interest of the other Members, such Member cannot withdraw from the Company by express will or otherwise permit an Adverse Termination to occur as to such Member and any attempted withdrawal by such Member shall be null and void.

### **Section 14.2 – Expulsion**

The Membership shall have the power and authority to expel any Member for any reason, with or without cause, upon a unanimous vote of at least seventy-five percent (75%) of the Percentage Interests held by the other Members (regardless of quorum and number present at any meeting called for such purpose).

## **SECTION 15 CONSEQUENCES OF BREACH**

Notwithstanding anything to the contrary in the Act, and in addition to any other rights or remedies available under this Agreement or otherwise available at law or in equity for any Breach, any Breaching Member shall be subject to this Section 15. In such event, at the election and sole discretion of a Majority in Interest of the other Members, one or more of the following shall occur:

- (a) The Breaching Member shall immediately cease to be a Member and shall have no further power to vote, act for or bind the Company;
- (b) The Breaching Member shall be liable in damages, without the requirement of a prior accounting, to the Company or any other Member for all costs and liabilities that the Company or such other Member may incur as a result of such Breach and the Company or such other Member may offset the amount of its damages against any sums whatsoever due from the Company or such other Member to the Breaching Member (including without limitation any against sums due as Compensation, distributions or purchase price for the Breaching Member's Membership Interests);
- (c) The Company shall have no obligation to pay to the Breaching Member his contributions, capital or profits, but may, by notice to the Breaching Member, elect to purchase the Membership Interest of the Breaching Member pursuant to the procedure set forth in Section 12.4(a) hereof;
- (d) If the Company does not elect to purchase the interest of the Breaching Member pursuant to subsection 15(c) or Section 12.4(a) hereof, the Company shall treat the Breaching Member as if he were an unadmitted assignee of the Membership Interest of the Breaching Member and shall make distributions to the Breaching Member of those amounts otherwise payable with respect to such Membership Interest pursuant to this Agreement;

- (e) The Company may apply any distributions otherwise payable with respect to such Membership Interest (including any payments of the purchase price pursuant to Section 12.4(c) hereof) to satisfy any claim it may have against the Breaching Member;
- (f) The Breaching Member shall have no right to inspect the Company's books or records or obtain other information concerning the Company's operations, except that the Breaching Member shall be provided tax information to the extent expressly required by Section 4.2; and
- (g) The Breaching Member shall continue to be liable to the Company for any unpaid capital contributions required by this Agreement.
- SECTION 16**  
**ADMISSION OF ASSIGNEES AND ADDITIONAL MEMBERS**
- Section 16.1 – Rights of Assignees**
- The Assignee of all or any portion of a Membership Interest has no right to participate in the management of the business and affairs of the Company or to become a Member. The Assignee is only entitled to receive the distributions and return of capital, and to be allocated the Net Profits and Net Losses attributable to the Membership Interest, to the extent assigned.
- Section 16.2 – Admission of Assignees**
- An Assignee of a Membership Interest shall be admitted as a new Member and admitted to all the rights of the Member who initially assigned the Membership Interest only with the approval of a Majority Interest of the Members. The Members may grant or withhold the approval of such admission for any in their sole and absolute discretion. If so admitted, the substituted Member has all the rights and powers and is subject to all the restrictions and liabilities of the Member originally assigning the Membership Interest. The admission of a substituted Member, without more, shall not release the Member originally assigning the Membership Interest from any liability to the Company that may have existed prior to the approval.
- Section 16.3 – Admission of Additional Members**
- A Majority in Interest of Members must approve the admission of additional Members and determine the Membership Interests and Capital Contributions of such Members.
- SECTION 17**  
**DISSOLUTION AND WINDING UP**
- Section 17.1 – Dissolution**
- The Company shall be dissolved and its affairs wound up, upon the first to occur of the following events (which, unless the Members agree to continue the business, shall constitute Dissolution Events):
- (a) by affirmative vote of a Majority in Interest of the Members entitled to vote; or
- (b) as otherwise may be required by law.

#### **Section 17.2 – Effect and Notice of Dissolution**

If dissolution occurs pursuant to Section 17.1(a), or (b), the Company shall deliver a notice of dissolution to the Secretary of State for filing, in accordance with the Act. Upon dissolution, the Company shall cease carrying on the Company business, except insofar as may be necessary for the winding up of its business, but the Company is not terminated, and continues until the winding up of the affairs of the Company is completed and articles of termination have been accepted by the Secretary of State for filing.

#### **Section 17.3 – Distribution of Assets on Dissolution**

Upon the winding up of the Company, the Company's property shall be distributed:

- (a) to creditors, including Members who are creditors, to the extent and in the order permitted by law, in satisfaction of the Company's liabilities; and
- (b) to Members in accordance with positive Capital Account balances taking into account all Capital Account adjustments for the Company's taxable year in which the liquidation occurs. Liquidation proceeds shall be paid within 60 days of the end of the Company's taxable year or, if later, within 90 days after the date of liquidation. Such distributions shall be in cash or Property (which need not be distributed proportionately) or partly in both, as determined by the Members.

#### **Section 17.4 – Winding Up and Articles of Termination**

The winding up of the Company shall be completed when all debts, liabilities, and obligations of the Company have been paid and discharged or reasonably adequate provision therefor has been made, and all of the remaining property and assets of the Company have been distributed to the Members. Upon the completion of winding up of the Company, articles of termination shall be delivered to the Secretary of State for filing to the extent required by the Act. The articles of termination shall set forth the information required by the Act.

### **SECTION 18 MISCELLANEOUS PROVISIONS**

#### **Section 18.1 – Entire Agreement**

This Agreement represents the entire agreement among all the Members and between the Members and the Company. This Agreement may only be amended by a written amendment executed by all of the Members. The Operating Agreement of the Company must be in writing.

#### **Section 18.2 – No Partnership Intended for Nontax Purposes**

The Members have formed the Company under the Act, to be treated as a partnership for tax purposes only under the Code, and expressly do not intend hereby to form a partnership under either the Tennessee Revised Uniform Partnership Act or the Tennessee Revised Uniform Limited Partnership Act. The Members do not intend to be partners one to another, or partners as to any third party. To the extent any Member, by word or action, represents to another person that any other Member is a partner or that the Company is a partnership, the Member making such wrongful representation shall be liable to any other Member who incurs personal liability by reason of such wrongful representation.

### **Section 18.3 – Rights of Creditors and Third Parties**

The Agreement is entered into among the Members for the exclusive benefit of the Company, its Members, and their successors and assignees. This Agreement is expressly not intended for the benefit of any creditor of the Company or any other Person. Except and only to the extent provided by applicable statute, no such creditor or third party shall have any rights under this Agreement or any agreement between the Company and any Member with respect to any Capital Contribution or otherwise.

### **Section 18.4 – Counterparts**

This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed to be an original.

### **Section 18.5 – Notices**

Any notice to be given hereunder shall be deemed to have been properly given if in writing and if delivered personally, or sent by registered or certified mail, postage prepaid and correctly addressed, or sent by overnight express delivery by a nationally recognized carrier, or sent by facsimile, to the Company at its office address and to the Members at their addresses set forth on Exhibit A and shall be effective upon delivery, if personally delivered, or when deposited in the mail or with the overnight delivery service or faxed, if mailed, delivered or faxed in accordance herewith. Any party may change its address for notices by delivering written notice of its new address to the Company and other Members in accordance with this Agreement.

### **Section 18.6 – Arbitration**

Any controversies, disputes, or claims arising out of or relating to this Agreement shall be submitted to binding arbitration in Knoxville, Tennessee. If the parties cannot mutually agree upon an arbitrator, each party shall designate an arbitrator and the designated arbitrators shall select the arbitrator. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect, or such rules as the parties may agree upon. The arbitrator shall have the authority to award relief under legal or equitable principles, including interim or preliminary relief, and to allocate responsibility for the costs of arbitration and to award recovery of attorneys' fees and expenses in such a manner as is determined to be appropriate by the arbitrator. The arbitration award shall be enforceable in any court having jurisdiction. This Section 18.6 shall not apply to any claim brought in a court of competent jurisdiction to enforce an arbitration award or to obtain equitable relief.

### **Section 18.7 – Enforcement Costs**

If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, or default, in connection with this Agreement, the prevailing party in such action shall be entitled to recover from the non-prevailing party the costs and expenses it incurred in such action, including but not limited to, reasonable attorney's fees and costs and other expenses incurred at trial and in appellate proceedings, in addition to any other relief to which such party may be entitled. The extent to which a party is determined to be a "prevailing party" and the appropriate allocation of attorneys' fees and costs and other expenses shall be decided by (i) the arbitrator under Section 18.6 or (ii) the court, as the case may be.

#### **Section 18.8 – Governing Law**

This Agreement and the rights of the parties under this Agreement will be governed by, interpreted, and enforced in accordance with the laws of the State of Tennessee, without regard to the conflicts of law principles of any jurisdiction.

#### **Section 18.9 – Binding Effect; Conflicts**

Subject to the provisions of this Agreement relating to transferability, this Agreement will be binding upon and inure to the benefit of the Members, and their respective distributees, successors, and assigns. This Agreement is subject to, and governed by, the Act and the Articles. In the event of a direct conflict between the provisions of this Agreement and the non-waivable provisions of the Act set forth in T.C.A. § 48-249-205(b) or the provisions of the Articles, the non-waivable provisions of the Act or the Articles, as the case may be, will be controlling. Conversely, in the event of a direct conflict between the provisions of this Agreement and the waivable provisions of the Act, the provisions of this Agreement will be controlling.

#### **Section 18.10 – Headings; Interpretation**

All headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement. The singular shall include the plural, and the masculine gender shall include the feminine and neuter, and vice versa, as the context requires.

#### **Section 18.11 – Severability**

If any provision of this Agreement is held to be illegal, invalid, unreasonable, or unenforceable under the present or future laws effective during the term of this Agreement, such provision will be fully severable; this Agreement will be construed and enforced as if such illegal, invalid, unreasonable, or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid, unreasonable, or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid, unreasonable, or unenforceable provision, there will be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, unreasonable, or unenforceable provision as may be possible and be legal, valid, reasonable, and enforceable.

#### **Section 18.12 – Additional Documents and Acts**

Each Member agrees to promptly execute and deliver to the Company such additional documents, statements of interest and holdings, designations, powers of attorney, and other instruments, and to perform such additional acts, as the Company may determine to be necessary, useful or appropriate to complete the organization of the Company, effectuate, carry out and perform all of the terms, provisions, and conditions of this Agreement and the transactions contemplated by this Agreement, and to comply with all applicable laws, rules, and regulations.

**SECTION 19  
ADVICE OF COUNSEL**

Each person signing this Agreement:

- (a) understands that this Agreement contains legally binding provisions;
- (b) is advised, and has had the opportunity, to consult with that person's own attorney;
- (c) has either consulted with the person's own attorney or consciously decided not to consult with the person's own attorney; and
- (d) acknowledges that London & Amburn, P.C. has acted as counsel to the Company in this matter and has not advised any other party in this matter. Each other party has consulted with its own separate legal counsel in connection herewith.

**SECTION 20  
INVESTMENT REPRESENTATIONS**


Each of the Members represents that he is acquiring his interest in the Company for his own account for investment and not with a view to the distribution or resale thereof, in whole or in part, and represents that he and his representative, if any, have had a full opportunity to ask questions of and receive answers from the Company, concerning the terms and conditions of such investment and that all questions have been answered to his full satisfaction.

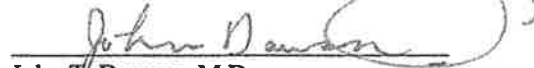
**SECTION 21  
CONFIDENTIALITY**


Each Member agrees that it will keep confidential and will not disclose, divulge or use in any manner (other than for Company purposes) any confidential, proprietary or secret information which such Member may obtain from the Company, including without limitation any such information obtained from financial statements, reports, and other materials submitted by the Company to such Member pursuant to this Agreement, or pursuant to visitation or inspection rights granted hereunder, unless such information (a) was in such Member's possession prior to disclosure of such information to such Member by the Company hereunder, (b) was generally known to the public at the time of disclosure of such information to such Member by the Company hereunder, or becomes generally known to the public after such disclosure through no act of such Member, (c) has come into the possession of such Member from a third party who to such Member's knowledge is under no obligation to the Company to maintain the confidentiality of such information or (d) is required to be disclosed or used by such Member by law; provided that if such Member is ordered to disclose or use such information pursuant to a judicial or governmental request, requirement or order, such Member shall promptly, and in any event prior to complying therewith, notify the Company and take commercially reasonable steps to assist the Company in contesting such request, requirement or order or otherwise protecting the Company's rights.

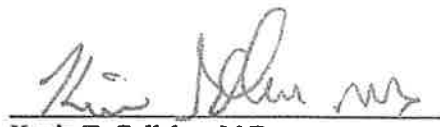
IN WITNESS WHEREOF, the undersigned have executed this Operating Agreement as of the date first above written.

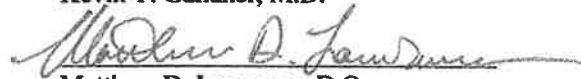
**MEMBERS:**

  
Thomas A. Browning, M.D.

  
John T. Dawson, M.D.

  
Stephen R. Franklin, M.D.

  
Kevin T. Gallaher, M.D.

  
Matthew D. Lowrance, D.O.

  
Steven L. Sterling, M.D.

**EXHIBIT A**

<b>MEMBERS AND ADDRESSES FOR NOTICES</b>	<b>INITIAL CAPITAL CONTRIBUTION</b>	<b>PERCENTAGE INTEREST IN GOVERNANCE AND FINANCIAL RIGHTS OF MEMBER</b>
Thomas A. Browning, M.D.* 6354 Lonas Spring Drive Knoxville, Tennessee 37909	\$3500.00	16.67%
John T. Dawson, M.D. 7800 Conner Road Powell, Tennessee 37849	\$3500.00	16.67%
Stephen R. Franklin, M.D. 7800 Conner Road Powell, Tennessee 37849	\$3500.00	16.67%
Kevin T. Gallaher, M.D. 7800 Conner Road Powell, Tennessee 37849	\$3500.00	16.67%
Matthew D. Lowrance, D.O. 6354 Lonas Spring Drive Knoxville, Tennessee 37909	\$3500.00	16.67%
Steven L. Sterling, M.D. 2607 Kingston Pike-Suite 182 Knoxville, Tennessee 37919	\$3500.00	16.67%

**\* Tax Matters Member**



## EXHIBIT B

(a) Subject to the provisions of paragraph (c) below, the Agreed Value of a Membership Interest ("Agreed Value") shall be (i) the Total Value of the Company (defined below) multiplied by (ii) the Percentage Interest in Financial Rights of the Membership Interest being sold, with the product of (i) and (ii) being further reduced by 25% so long as the Agreed Value is a positive amount and if such Membership Interest is being acquired from a Breaching Member. If the calculation of the Agreed Value results in a negative amount, then the selling Member or the selling Member's estate, as the case may be, shall pay such amount to the Company at the closing. The selling Member acknowledges and agrees that the Company shall be entitled to offset such negative amount against any amounts the Company may owe to such selling Member.

For example, if the Total Value of the Company is \$10,000 and the Percentage Interest in Financial Rights of the Membership Interest being sold is 50%, then the Agreed Value of such Membership Interest is \$10,000 multiplied by 50%, or \$5,000, with that product being further reduced by 25%, or \$1,250 if such Membership Interest is being acquired from a Breaching Member.

(b) For purposes of paragraph (a) above, the Total Value of the Company ("Total Value") means, unless the Company and the selling Member (or such Member's estate, personal or legal representative and/or heir, as the case may be) otherwise mutually agree in writing, an amount equal to (i) the fair market value of the Company's assets (as determined by a qualified, independent appraiser, with the cost of such appraisal being shared equally between the purchaser and the seller) less (ii) all of the Company's debts and liabilities, as of the applicable date of determination pursuant to Section 12.4. The determination of Total Value by the CPA firm then servicing the Company's account shall be final and binding on each of the Members and the Company. If, for any reason, the selling Member and the purchaser cannot agree upon an appraiser to conduct the appraisal, then the selling Member and the purchaser shall each select an appraiser and the two appraisers so chosen shall select a third appraiser who shall conduct the appraisal.

## **Attachment Section A-6B-1,a-d**

### **Plot Plan**

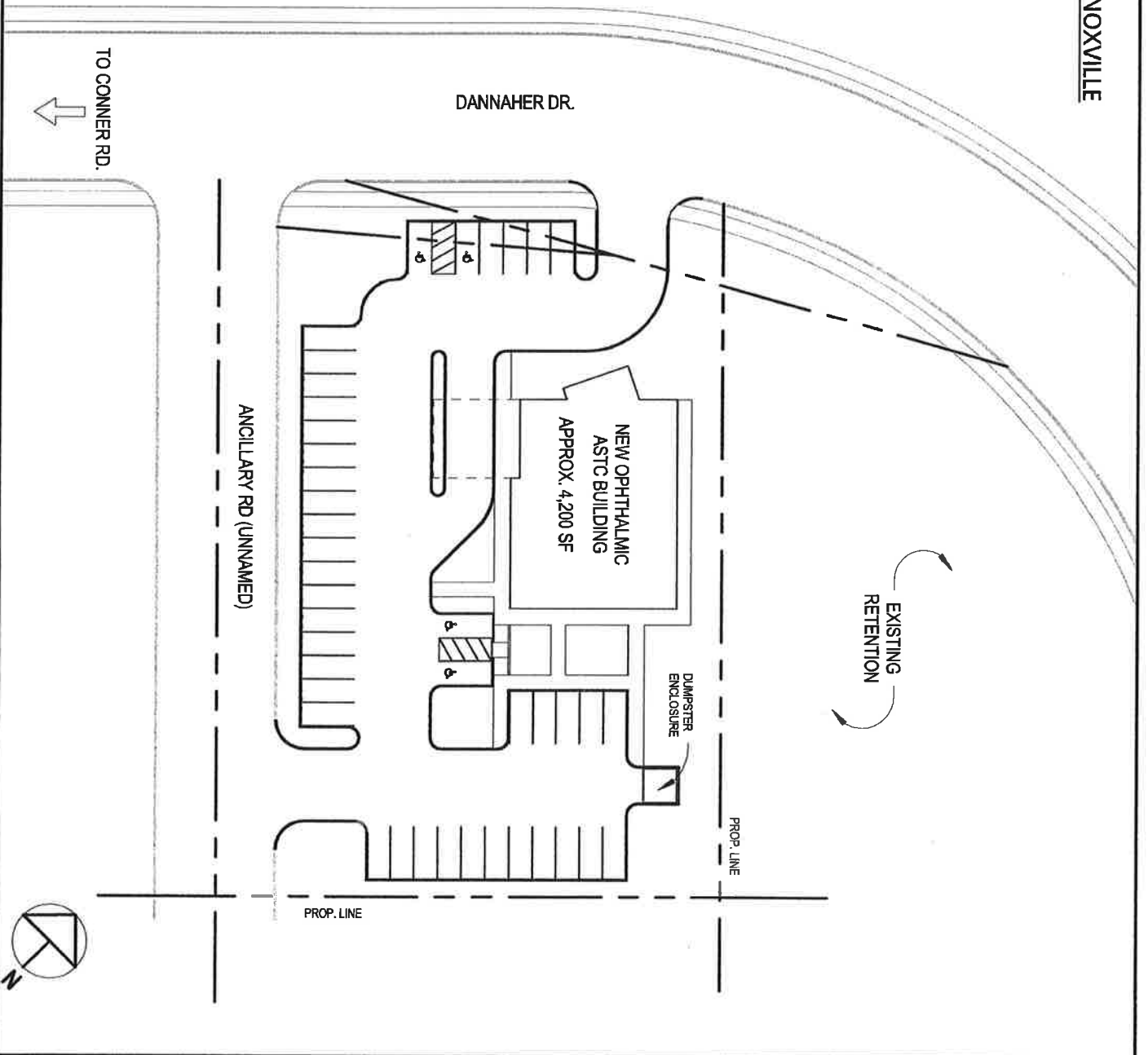
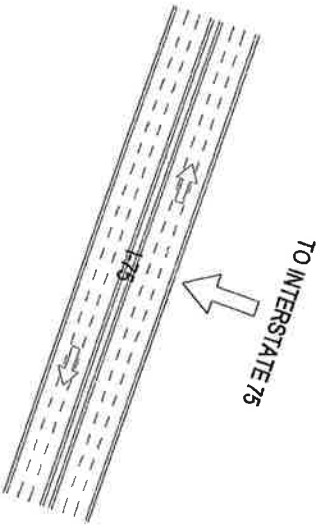
**PLOT PLAN - EYE SURGERY CENTER OF KNOXVILLE**  
DANNAHER DR, POWELL, TN

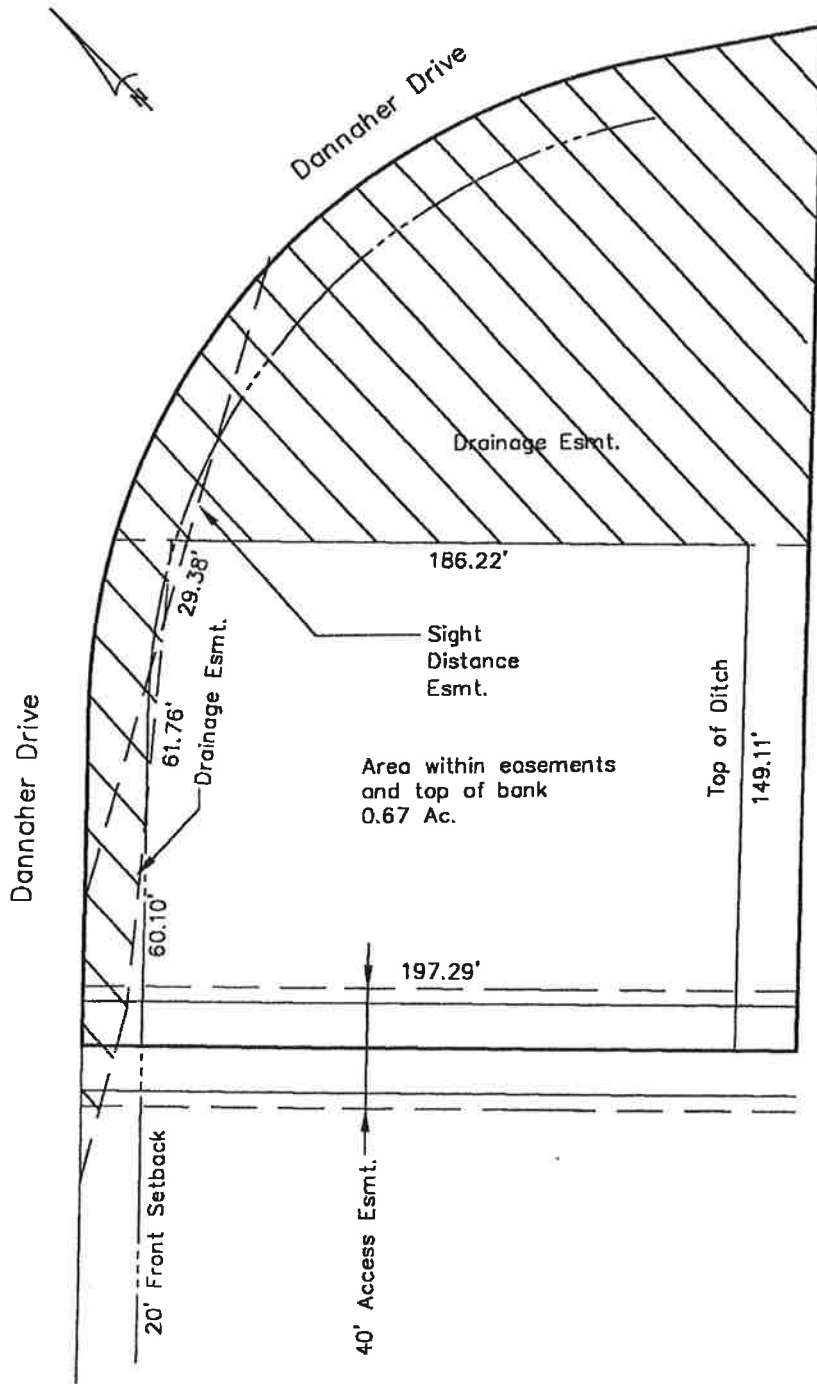


EYE SURGERY CENTER  
OF KNOXVILLE

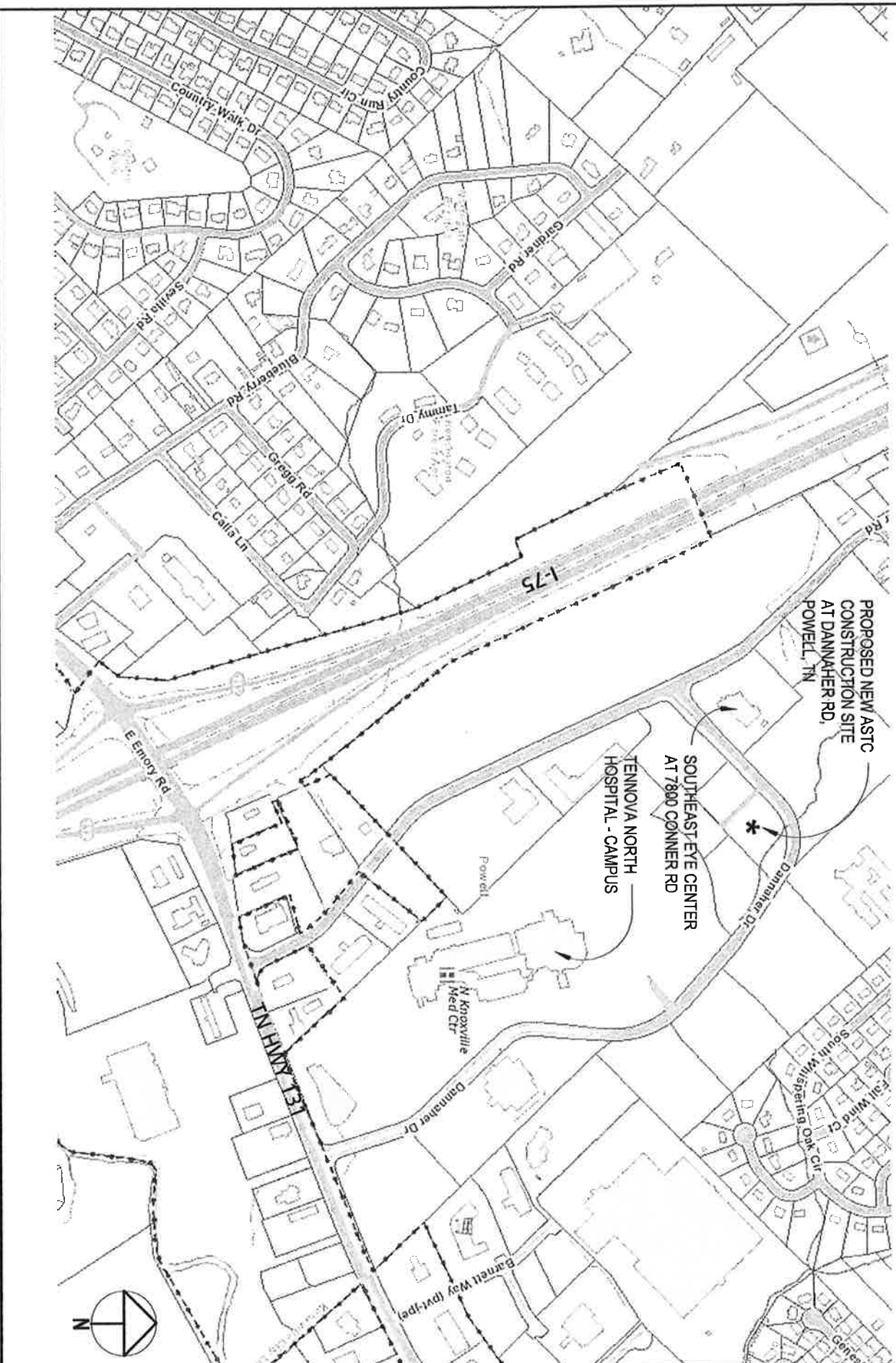
PLOT PLAN DANNAHER DRIVE  
POWELL, TN

EXISTING SITE 1.60 ACRES





EYE SURGERY CENTER OF KNOXVILLE - ACCESSIBILITY OF PROPOSED SITE TO INTERSTATE I-75 & HWY 131  
PROPOSED SITE ON DANNAHER DRIVE - POWELL, TN - KNOX COUNTY



## **Attachment Section A-6B-2**

### **Floor Plan**

**DANNAHER DR. - POWELL, TN**

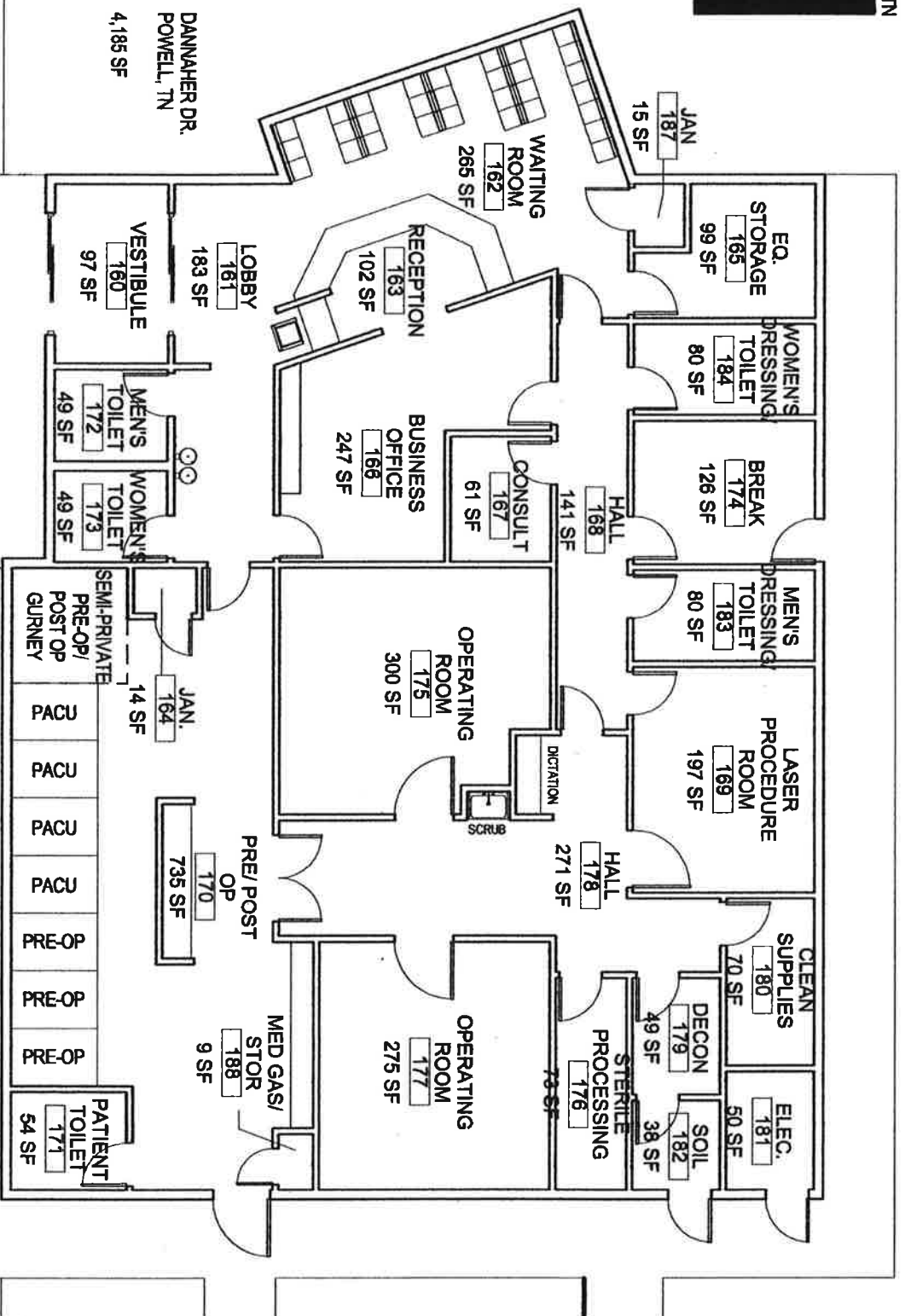
Urban  
Grocery  
Associates, Inc.

## FLOOR PLAN

**TOTAL GROSS AREA:**

**DANNAHER DR.  
POWELL, TN**

**4,185 SF**

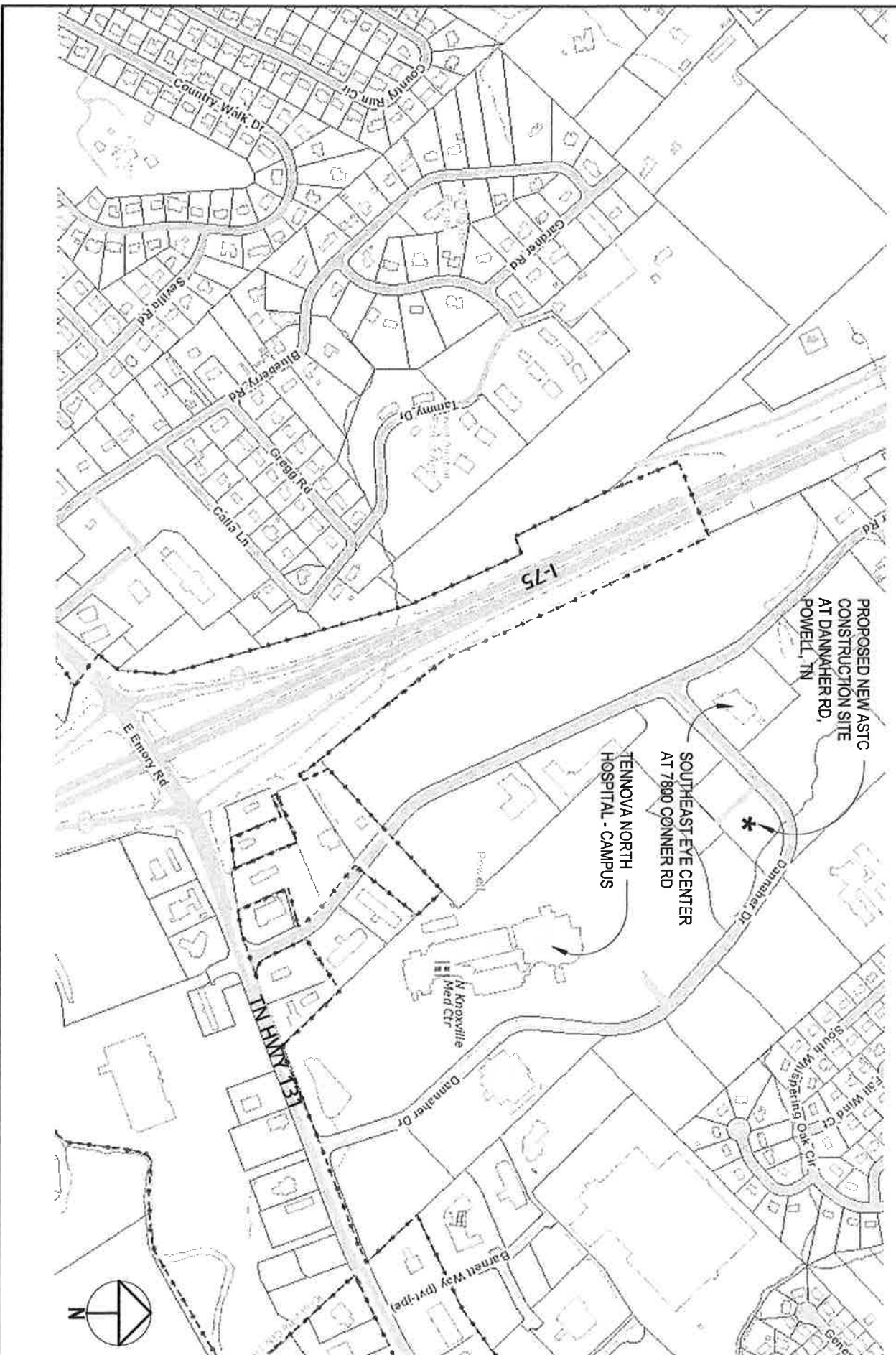


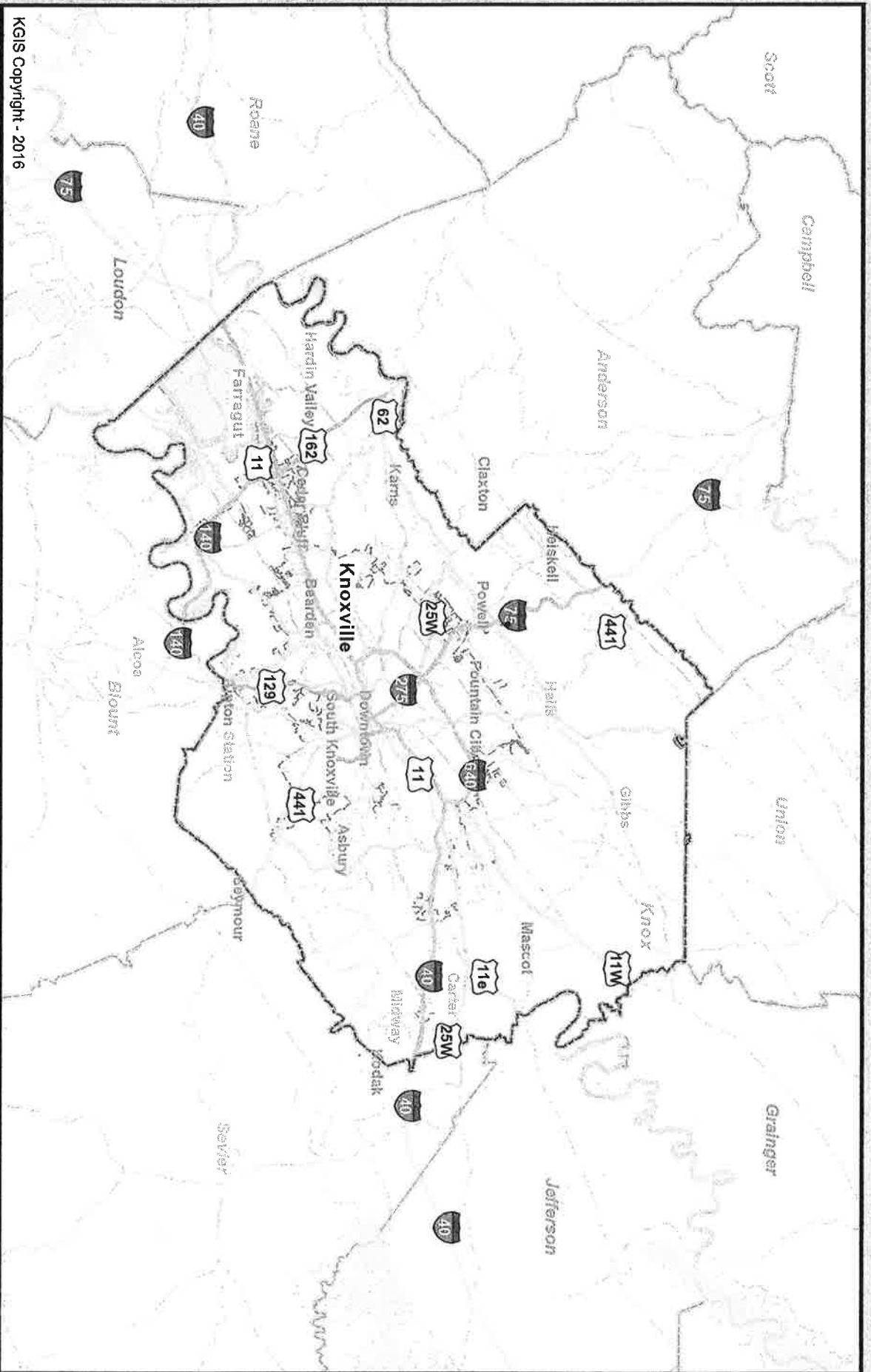
## **Attachment Section A-6B-3**

### **Accessibility of Project Site**



EYE SURGERY CENTER OF KNOXVILLE - ACCESSIBILITY OF PROPOSED SITE TO INTERSTATE I-75 & HWY 131  
PROPOSED SITE ON DANNAHER DRIVE - POWELL, TN - KNOX COUNTY





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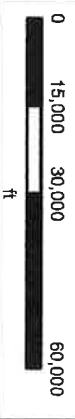
## Eye Surgery Center of Knoxville

Dannaher Drive, Powell, TN 37849

Accessibility to Proposed ASTC Site

### Knoxville - Knox County - KUB Geographic Information System

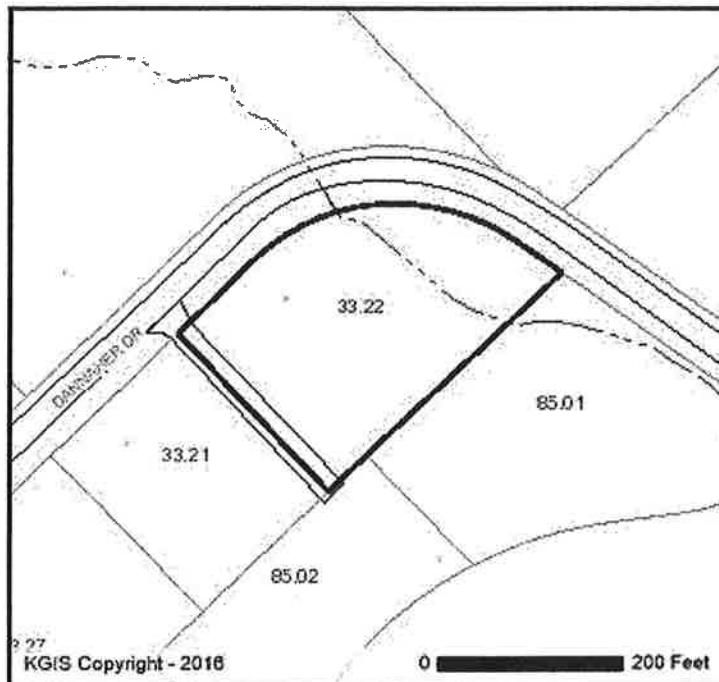
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## **Attachment Section A-6A**

### **Site Control-Option to Purchase**

**Parcel 047 03322 - Property Map and Details Report****Property Information**

Location Address: 0 DANNAHER DR  
 CLT Map: 47  
 Insert:  
 Group:  
 Condo Letter:  
 Parcel: 33.22  
 Parcel ID: 047 03322  
 Parcel Type:  
 District: E6  
 Ward:  
 City Block:  
 Subdivision: DANNAHER PLACE  
 FINAL PLAT  
 Rec. Acreage: 1.6  
 Calc. Acreage:  
 Recorded Plat: 20100715 - 0002987  
 Recorded Deed: 20121102 - 0029360  
 Deed Type: Deed:Deed in Li  
 Deed Date: 11/2/2012

**Address Information**

Site Address: 0 DANNAHER DR  
 POWELL - 37849  
 Address Type: UNUSED LAND  
 Site Name: DANNAHER PLACE LOT 2R2

**Owner Information**

KNOXFI TWO LLC  
 132 SHERLAKE LN  
 KNOXVILLE, TN 37922

The owner information shown in this section does **not** necessarily reflect the person(s) responsible for Last Year's property taxes. Report any errors to the Knox County Property Assessor's office at (865) 215-2365.

**Jurisdiction Information**

County: KNOX COUNTY  
 City / Township:

**MPC Information**

Census Tract: 62.06  
 Planning Sector: North County

Please contact Knox County Metropolitan Planning Commission (MPC) at (865) 215-2500 if you have questions.

**Political Districts**

Voting Precinct: 59  
 Voting Location: Brickey-McCloud School  
 1810 DRY GAP PIKE  
 TN State House: 16 Bill Dunn  
 TN State Senate: 7 Richard Briggs  
 County Commission: 7 Charles Busler  
 Bob Thomas  
 Ed Brantley

**City Council:**

School Board: 7 Patti Bounds

Please contact Knox County Election Commission at (865) 215-2480 if you have questions.

**School Zones**

Elementary: BRICKEY MCCLOUD ELEMENTARY  
 Intermediate:  
 Middle: POWELL MIDDLE  
 High: POWELL HIGH

Please contact Knox County Schools Transportation and Zoning Department at (865) 594-1550 if you have questions.

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WALLACE & WALLACE,  
REALTORS®

## COMMERCIAL PURCHASE AND SALE AGREEMENT

1. **Purchase and Sale.** The undersigned Buyer, Eye Surgery Center of Knoxville, LLC ("Buyer") agrees to buy and the undersigned Seller, Knoxfi Two LLC ("Seller") agrees to sell all that tract or parcel of land, with such improvements as are located thereon, described as follows: All that tract of land known as: Dannaher Drive (Address), Powell (City), Tennessee (State), 37849 (Zip), as recorded in Knox County Register of Deeds Office, Document # 201211020029360, and further described as: 1.6 vacant acres fronting Dannaher Drive together with all fixtures, landscaping, improvements, easements, rights of way, and appurtenances, all being hereinafter collectively referred to as the "Property", as more particularly described in Exhibit "A", or if no Exhibit "A" is attached as is recorded with the Register of Deeds of the County in which the Property is located and is made a part of this Commercial Purchase and Sale Agreement ("Purchase and Sale Agreement" or "Agreement") by reference.
2. **Purchase Price.** The total purchase price for the Property shall be: Two Hundred Seventy U.S. DOLLARS, (\$270,000) ("Purchase Price"), and is subject to all prorations and adjustments and shall be paid by Buyer at the Closing by cash, wire transfer of immediately available funds, cashier's check or certified check.
3. **Earnest Money.** Buyer has deposited the sum of Five Thousand U.S. DOLLARS, (\$5,000) with Coldwell Banker Commercial Wallace & Wallace Realtors ("Holder"). This sum ("Earnest Money") has been received by Holder and is to be applied as part of the Purchase Price at Closing. The Earnest Money shall be deposited in Holder's escrow account at Pinnacle Bank within five (5) banking days from the Binding Agreement Date. In the event any Earnest Money check is not honored, for any reason, by the financial institution from which it is drawn, Holder shall promptly notify Buyer and Seller. Buyer shall have three (3) banking days after notice to deliver good funds to Holder. In the event Buyer does not timely deliver good funds to Holder, this Agreement shall automatically terminate; and Holder shall notify the parties of the same. Holder shall disburse Earnest Money only as follows: (a) at Closing; (b) upon a subsequent written Agreement signed by Buyer and Seller; (c) as set forth below in the event of a dispute regarding Earnest Money. No party shall seek damages from Holder, nor shall Holder be liable for any such damages, for any matter arising out of or related to the performance of Holder's duties hereunder.

**Disputes Regarding Earnest Money.** In the event Buyer or Seller notifies Holder of a dispute regarding disposition of Earnest Money that Holder cannot resolve, Buyer and Seller agree to interplead Earnest Money into a court of competent jurisdiction. Holder shall be reimbursed for, and may deduct from, any funds interpleaded, its costs and expenses, including reasonable attorney's fees. The prevailing party in the interpleader action shall be entitled to collect from the other party the costs and expenses reimbursed to Holder, and upon payment of such funds into the court clerk's office, Holder shall be released from all further liability in connection with the funds delivered.

#### 4. Inspection and Appraisal

- A. **Inspection.** Prior to closing, Buyer and Buyer's agent(s) shall have the right to enter upon the Property at Buyer's expense and at reasonable times, to inspect, survey, examine, and test the Property as Buyer may deem necessary. Buyer may, for a fee, obtain a septic system inspection letter from the Tennessee Department of Environment and Conservation, Division of Ground Water Protection. Buyer shall indemnify and hold Seller and all Brokers harmless from and against any and all claims, injuries, and damages to persons and/or property arising out of or related to the exercise of Buyer's rights hereunder. Buyer shall have Ninety (90) days from the Binding Agreement Date ("Due Diligence Period") to evaluate the Property, the feasibility of the transaction, the availability and cost of financing, and any other matter of concern to Buyer. During the Due Diligence Period, Buyer shall have the right to terminate this Agreement upon written notice to Seller if Buyer determines, based on an evaluation of the above, that it is not desirable to proceed with the transaction. In such event, Holder shall promptly refund Buyer's Earnest Money in accordance with the Earnest Money Paragraph above. Within Fourteen (14) days from the Binding Agreement Date, Seller shall deliver to Buyer copies of materials Seller may have in its possession concerning the Property referenced in Exhibit "B" (collectively, "Due Diligence Materials"), which materials shall be promptly returned by Buyer if Agreement does not close for any reason. If Buyer fails to timely notify Seller that it is not proceeding with the transaction, Buyer shall waive its rights to terminate this Agreement pursuant to this paragraph.
- B. **Appraisal.** Buyer and Seller hereby give permission to the Broker(s) involved in this transaction to give a true and correct copy of this Agreement to an Appraiser who is appraising the Property if so requested by the Appraiser or by the Lender who is contemplating funding a portion of the Purchase Price.

#### 5. Title.

- A. **Warranties of Seller.** Seller warrants that at Closing, Seller shall convey good and marketable, fee simple title to the Property to Buyer, subject only to the following exceptions ("Permitted Exceptions"):
- (1) Liens for ad valorem taxes not yet due and payable;
  - (2) Those exceptions to which Buyer does not object or which Buyer waives in accordance with the Title Objections paragraph below. "Good and Marketable, fee simple title" with respect to the Property shall be such title: (a) as is classified as "marketable" under the laws of Tennessee; and (b) as is acceptable to and insurable by a title company doing business in Tennessee ("Title Company"), at standard rates on an American Land Title Association Owner's Policy ("Title Policy").
- B. **Title Objections.** Buyer shall have Thirty (30) days from the Binding Agreement Date in which to furnish Seller with a written statement of any title objections, UCC-I or UCC-2 Financing Statements and encroachments, and other facts affecting the marketability of the Property as revealed by a current title examination and survey. Seller shall have Fourteen (14) days from the receipt of such objections (the "Title Cure Period") to cure all valid title objections. Seller shall satisfy any existing liens or monetary encumbrances identified by Buyer as title objections which may be satisfied by the payment of a sum certain prior to or at Closing.

Except for Seller's obligations in the preceding sentence, if Seller fails to cure any other valid title objections of Buyer within the Title Cure Period (and fails to provide Buyer with evidence of Seller's cure satisfactory to Buyer and to the Title Company), then within five (5) days of the expiration of the Title Cure Period, Buyer may as Buyer's sole remedies: (1) rescind the transaction contemplated hereby, in which case Buyer shall be entitled to the return of Buyer's Earnest Money; (2) waive any such objections and elect to close the transaction contemplated hereby irrespective of such title objections and without reduction of the Purchase Price; or (3) extend the Closing Date period for a period of up to Fourteen ( 14 ) days to allow Seller further time to cure such valid title objections. Failure to act in a timely manner under this paragraph shall constitute a waiver of Buyer's rights hereunder. Buyer shall have the right to reexamine title prior to Closing and notify Seller at Closing of any additional title objections which appear of record after the date of Buyer's initial title examination and before Closing.

**6. Closing Date and Possession**

- A. **Closing Date.** This transaction shall be consummated ("Closing") at the office of To be determined and mutually agreed upon at a later date on or before Thirty (30) days following the expiration of the ("inspection period"), or at such other time and places the parties may agree upon in writing (the "Closing Date").
- B. **Possession.** Seller shall deliver possession and occupancy of the Property to Buyer at Closing, subject only to the rights of tenants in possession, if any, and the Permitted Exceptions unless otherwise addressed herein.

**7. Seller's Obligations at Closing.** At Closing, Seller shall deliver to Buyer:

- A. a Closing Statement;
- B. Deed (mark the appropriate deed below)
- C.
- |  |   |
|--|---|
| <input type="checkbox"/> General Warranty Deed | <input checked="" type="checkbox"/> Special Warranty Deed |
| <input type="checkbox"/> Quit Claim Deed       | <input type="checkbox"/> Other: _____                     |
- D. All documents which Seller must execute under the terms of this Agreement to cause the Title Company to deliver to Buyer the Title Policy including, without limitation, a title affidavit from Seller to Buyer and to the Title Company in the form customarily used in Tennessee commercial real estate transactions so as to enable the Title Company to issue Buyer the Title Policy with all standard exceptions deleted and subject only to Permitted Exceptions.

**8. Conditions to Closing.**

The purchaser shall have received a Certificate of Need ("CON") from the Tennessee Health Services and Development Agency.

**9. Costs.**



- A. **Seller's Costs.** Seller shall pay the costs of the deed preparation transferring ownership of the Property to the Buyer, the recording any title curative documents, including without limitation, satisfactions of deeds to secure debt, the fees of Seller's counsel, and one half of the closing fee charged by the closing agent.

In the event Seller is subject to Tax Withholding as required by the Foreign Investment in Real Property Tax Act, (hereinafter "FIRPTA"), Seller additionally agrees that such Tax Withholding must be collected from Seller by Buyer's Closing Agent at the time of Closing. In the event Seller is not subject to FIRPTA, Seller shall be required as a condition of Closing to sign appropriate affidavits certifying that Seller is not subject to FIRPTA. It is Seller's responsibility to seek independent tax advice or counsel prior to the Closing Date regarding such tax matters.

- B. **Buyer's Costs.** Buyer shall pay the cost of Buyer's counsel and consultants; any costs in connection with Buyer's inspection of the Property, any costs associated with obtaining financing for the acquisition of the Property (all deed recording fees and the cost of recording Buyer's loan documents), all transfer taxes, cost of the survey (if any), appraisal (if any), title examination, premium for owner's title insurance policy, and one half of the closing fee charged by the closing agent.

10. **Taxes and Prorations.** Real estate taxes on the Property for the calendar year in which the Closing takes place shall be prorated as of 12:01 a.m. on the Closing Date. Seller shall be responsible (even after Closing) for paying all taxes (including previous reassessments and roll back taxes) on the Property for the time period during which Seller owned the Property and shall indemnify the Buyer therefore. In addition, the following items shall also be prorated as of 12:01 a.m. on the Closing Date *[Select only those that apply to this transaction; the items not selected shall not apply to this Agreement]:*

<input type="checkbox"/> Utilities	<input type="checkbox"/> Service Contracts	<input type="checkbox"/> Tenant Improvement Costs
<input type="checkbox"/> Rents	<input type="checkbox"/> Leasing Commissions	<input type="checkbox"/> Other: _____

11. **Representations and Warranties.**

- A. **Seller's Representations and Warranties.** As of the Binding Agreement Date and the Closing Date, Seller makes the representations and warranties to Buyer, if any, as indicated on Exhibit "D."
- B. **Buyer's Representations and Warranties.** As of the Binding Agreement Date and the Closing Date, Buyer represents and warrants to Seller that Buyer has the right, power and authority to enter into this Agreement and to consummate the transaction contemplated by the terms and conditions of this Agreement; and the persons executing this Agreement on behalf of Buyer have been duly and validly authorized by Buyer to execute and deliver this Agreement and shall have the right, power and authority to enter into this Agreement and bind Buyer.

12. **Agency and Brokerage.**



**A. Agency.**

- (1) In this Agreement, the term "Broker" shall mean a licensed Tennessee real estate broker or brokerage firm and where the context would indicate the Broker's Affiliated Licensees. No Broker in this transaction shall owe any duty to Buyer or Seller greater than what is set forth in their brokerage engagements and the Tennessee Code Annotated 62-13-101 et seq; and the Tennessee Real Estate Commission Rules and Regulations;
- (2) Seller and Buyer acknowledge that if they are not represented by a Broker, they are each solely responsible for their own interests, and that Broker's role is limited to performing ministerial acts for either party, and are referred to herein as a Facilitator;
- (3) The Broker, if any, working with the Seller is identified on the signature page as the "Listing Company"; and ☒ said Broker is representing the Seller, OR, ☐ said Broker is not representing the Seller and is acting in the capacity of a facilitator;
- (4) The Broker, if any, working with the Buyer is identified on the signature page as the "Selling Company"; and ☒ said Broker is representing the Buyer OR, ☐ said Broker is not representing the Buyer and is acting in the capacity of a facilitator;
- (5) If Buyer and Seller are both being represented by the same Broker, a relationship of designated agency shall exist. *[If designated agency exists, see the attached addendum]*

**B. Brokerage.** Seller agrees to pay Listing Broker at Closing the compensation specified by a separate Agreement. The Listing Broker will direct the closing agency/attorney to pay the Selling Broker from the commission received an amount, if any, in accordance with the terms and provisions specified by separate Agreement. The parties agree and acknowledge that the Brokers involved in this transaction may receive compensation from more than one party. All parties to this Agreement agree and acknowledge that any real estate firm involved in this transaction shall be deemed a third party beneficiary only for the purposes of enforcing their commission rights, and as such, shall have the right to maintain an action on this Agreement for any and all compensations due and any reasonable attorney's fees and court costs.

- 13. Disclaimer.** It is agreed that the real estate firms and real estate licensees(s) representing or assisting Seller or Buyer and their brokers (collectively referred to as "Brokers") are not parties to this Agreement and do not have assume liability for the performance or nonperformance of Seller or Buyer. Buyer and Seller agree that Brokers shall not be responsible for any of the following, including but not limited to, those matters which could have been revealed through a survey, title search or inspection of the Property; the insurability of the Property or cost to insure the Property; for the condition of the Property, any portion thereof, or any item therein; for any geological issues present on the Property; for any issues arising out of Buyer's failure to physically inspect the Property prior to entering into this Agreement and/or Closing; for building products and construction techniques; for the necessity or cost of any repairs to the Property; for hazardous or toxic materials; for the tax or legal consequences of this transaction; for the availability, capability, and/or cost of utility, sewer, septic or community amenities; for proposed or pending condemnation actions involving the Property; for applicable boundaries of school districts or other school information; for the appraised or future value of the Property; for any conditions(s) existing off the Property which may affect the Property; for the terms, conditions and availability of financing; and for the uses and zoning of the Property whether permitted or proposed.

Buyer and Seller acknowledge that Brokers are not experts with respect to the above matters and that they have not relied upon any advice, representations or statements of Brokers (including their firms and affiliated licenses) and waive and shall not assert any claims against Brokers (including their firms and affiliated licenses) involving same. Buyer and Seller understand that it has been strongly recommended that if any of these or any other matters concerning the Property are of concern to them, that they secure the services of appropriately credentialed experts and professionals of Buyer's or Seller's choice for the independent expert advice and counsel relative thereto.

14. **Destruction of Property Prior to Closing.** If the Property is destroyed or substantially destroyed prior to Closing, Seller shall give Buyer prompt written notice thereof, which notice shall include Seller's reasonable estimate of: (1) the cost to restore and repair the damage; (2) the amount of insurance proceeds, if any, available for the same; and (3) whether the damage will be repaired prior to Closing. Upon written notice to Seller, Buyer may terminate this Agreement within seven (7) days of receiving such notice from Seller. If Buyer does not terminate this Agreement, Buyer shall be deemed to have accepted the Property with the damage and shall receive at Closing: (1) any insurance proceeds which have been paid to Seller but not yet spent to repair the damage, and (2) an assignment of all unpaid insurance proceeds on the claim. Buyer may request, in writing, and Seller shall provide within five (5) business days of Buyer's request, all documentation necessary to confirm insurance coverage and/or payment or assignment of insurance proceeds.

15. **Other Provisions.**

- A. **Exhibits, Binding Effect, Entire Agreement, Modification, Assignment, and Binding Agreement Date.** This Agreement shall be for the benefit of, and be binding upon, the parties hereto, their heirs, successors, legal representatives and assigns. This Agreement constitutes the sole and entire Agreement between the parties hereto and no modification of this Agreement shall be binding unless signed by all parties or assigns to this Agreement. No representation, promise or inducement not included in this Agreement shall be binding upon any party hereto. Any assignee shall fulfill all the terms and conditions of this Agreement. It is hereby agreed by both Buyer and Seller that any real estate agent working with or representing either party shall not have the authority to bind the Buyer, Seller or any assignee to any contractual agreement unless specifically authorized in writing within this Agreement. The parties hereby authorize either licensee to insert the time and date of the receipt of notice of acceptance of the final offer and further agree to be bound by such as the Binding Agreement Date following the signatory section of this Agreement or Counter Offer, if applicable
- B. **Survival Clause.** Any provision herein contained, which by its nature and effect, is required to be performed after closing shall survive the closing and delivery of the deed and shall remain binding upon the parties to this Agreement and shall be fully enforceable thereafter. Notwithstanding the above, the representations and warranties made in Exhibit "D" shall survive the Closing for a period of Zero (0) days from the date of Closing.
- C. **Governing Law and Venue.** This Agreement is intended as a Contract for the purchase and sale of real property and shall be interpreted in accordance with the laws and in the courts of the State of Tennessee.
- D. **Time of Essence.** Time is of the essence of this Agreement.

- E. Terminology.** As the context may require in this Agreement: (1) the singular shall mean the plural and vice versa; (2) all pronouns shall mean and include the person, entity, firm or corporation to which they relate; (3) the feminine shall mean the masculine and vice versa; and (4) the term day(s) used throughout this Agreement shall be deemed to be calendar day (s) ending at 11:59 p.m. local time unless otherwise specified in this Agreement. Local time is to be determined by the location of the Property. All references to time are deemed to be local time. In the event a performance deadline, including the Closing Date (as defined in paragraph six (6) herein), Day of Possession (as defined in paragraph six (6) herein) and Offer Expiration Date (as defined in paragraph sixteen (16) herein), occurs on a Saturday, Sunday or legal holiday, the performance deadline shall be extended to the next following business day. Holidays as used herein are those days deemed federal holidays pursuant to 5 U.S.C. § 6103.
- F. Responsibility to Cooperate.** Buyer and Seller agree to timely take such actions and produce, execute, and/or deliver such information and documentation as is reasonably necessary to carry out the responsibilities and obligations of this Agreement. Except as to matters which are occasioned by clerical errors or omissions or erroneous information, the approval of the Closing documents by the parties shall constitute their approval of any differences between this Agreement and the Closing. The Buyer and Seller agree that if requested after Closing, they will correct any documents and pay any amounts due where such corrections or payments are appropriate by reason of mistake, clerical errors or omissions or the result of erroneous information.
- G. Notices.** Except as otherwise provided herein, all notices and demands required or permitted hereunder shall be in writing and delivered either: (1) in person, (2) by a prepaid overnight delivery service, (3) by the United States Postal Service, postage prepaid, registered or certified return receipt requested. Notice shall be deemed to have been given as of the date and time it is actually received. Notices shall be sent as follows:

**If to Buyer:**

Eye Surgery Center of Knoxville LLC  
Stephen R. Franklin  
president  
member  
7800 Conner Rd Powell TN 37849

With a copy, but not as notice to Broker:  
Bryan Petett

**If to Seller:**

Knoxfl Two, LLC  
David Fiser  
132 Sherlake Lane  
Knoxville, TN 37922

With a copy, but not as notice to Broker:  
Keith Widmer

- H. Remedies.** In the event of a breach of this Agreement, the non-breaching party may pursue all remedies available at law or in equity. Notwithstanding the above, if Buyer breaches Buyer's obligations or warranties herein, Seller shall have the option to request that Holder pay the Earnest Money to Seller, which if disbursed to Seller by Holder, shall constitute liquidated damages in full settlement of all claims by Seller. Such liquidated damages are agreed to by the parties not to be a penalty and to be a good faith estimate of Seller's actual damages, which damages are difficult to ascertain. In the event that any party hereto shall file suit for breach or enforcement of this Agreement (including suits filed after Closing which are based on or related

to the Agreement), the prevailing party shall be entitled to recover all costs of such enforcement, including reasonable attorney's fees. The parties hereby agree that all remedies are fair and equitable and neither party will assert the lack of mutuality of remedies as a defense in the event of a dispute.

- I. **Equal Opportunity.** This Property is being sold without regard to race, color, sex, religion, handicap, familial status, or national origin.
  - J. **Severability.** If any portion or provision of this Agreement is held or adjudicated to be invalid or unenforceable for any reason, each such portion or provision shall be severed from the remaining portions or provisions of this Agreement, and the remaining portions or provisions shall be disbursed according to the terms stated herein.
  - K. **Construction.** This Agreement or any uncertainty or ambiguity herein shall not be construed against any party but shall be construed as if all parties to this Agreement jointly prepared this Agreement.
16. **Time Limit of Offer.** This Offer may be withdrawn at any time before acceptance with Notice. Offer terminates if not countered or accepted by Five o'clock ☐ a.m. / ☐ p.m. local time on the 2nd day of September, 2016.
17. **Exhibits and Addenda.** All exhibits and/or addenda attached hereto, listed below, or referenced herein are made a part of this Agreement. If any such exhibit or addendum conflicts with any preceding paragraph, said exhibit or addendum shall control:
- Exhibit "A" Legal Description
  - Exhibit "B" Due Diligence Materials
  - Exhibit "C" Addition to Seller's Closing Documents
  - Exhibit "D" Seller's Warranties and Representations
  - Exhibit "E" Designated Agency
18. **Special Stipulations.** The following Special Stipulations, if conflicting with any preceding paragraph, shall control.
- Purchaser may elect to extend the "Due Diligence Period" for two (2) periods not to exceed thirty (30) days each, provided that Purchaser deposits Ten Thousand US Dollars (\$10,000.00) for each thirty (30) day extension at or before the time each such extension goes into effect. Each such extension shall be nonrefundable should the purchaser elect not to purchase the property. Each such Extension Deposit shall apply against the Purchase Price at the Closing.
19. **Method of Execution.** The parties agree those signatures and initials transmitted by facsimile, other photocopy transmittal or by transmittal of digital signature as defined by the applicable State or Federal Law will be acceptable and may be treated as originals, and that the final Purchase And Sale Agreement containing all signatures and initials may be executed partially by original signature and partially on facsimile, other photocopy documents, or by digital signature as defined by the applicable State or Federal Law.

**LEGAL DOCUMENTS:** This is an important legal document creating valuable rights and obligations. If you have any questions about it, you should review it with your attorney. Neither the Broker nor any Agent or

Facilitator is authorized or qualified to give you any advice about the advisability or legal effect of its provisions.

**NOTE:** Any provisions of this Agreement which are preceded by a box "☐" must be marked to be a part of this Agreement. By affixing your signature below, you also acknowledge that you have reviewed each page and have received a copy of this Agreement.

Buyer hereby makes this offer.

Eye Surgery Center of Knoxville LLC  
BUYER

By: [Signature] (Stephen R. Franklin)

Title: president & member

Entity: \_\_\_\_\_

9/1/16 at 5:20 o'clock ☐ am / ☒ pm

OFFER DATE: \_\_\_\_\_

Buyer hereby makes this offer.

\_\_\_\_\_  
BUYER

By: \_\_\_\_\_

Title: \_\_\_\_\_

Entity: \_\_\_\_\_

\_\_\_\_\_ at \_\_\_\_\_ o'clock ☐ am / ☐ pm

OFFER DATE: \_\_\_\_\_

Seller hereby:

- ☐ ACCEPTS -- accepts this offer.  
☐ COUNTERS - accepts this offer subject to the attached Counter Offer(s).  
☐ REJECTS this offer and makes no counter offer.

SELLER

By: David

Title: member

Entity: Know Fi Two, LLC

9/2/16 at 2:30 o'clock ☐ am / ☒ pm

DATE: \_\_\_\_\_

SELLER

By: \_\_\_\_\_

Title: \_\_\_\_\_

Entity: \_\_\_\_\_

\_\_\_\_\_ at \_\_\_\_\_ o'clock ☐ am / ☐ pm

DATE: \_\_\_\_\_

**Binding Agreement Date.** This instrument shall become a "Binding Agreement" on the date ("Binding Agreement Date") the last offeror, or licensee of offeror, receives notice of offeree's acceptance. Notice of acceptance of the final Offer was provided on 2<sup>nd</sup> day of September 2016 at 2:30 o'clock by David Fiser (Name).

**For Information Purposes Only:**

Listing Company \_\_\_\_\_

Listing Company \_\_\_\_\_

Independent Licensee \_\_\_\_\_

Independent Licensee \_\_\_\_\_

Licensee Email \_\_\_\_\_

Licensee Email \_\_\_\_\_





**EXHIBIT "B"**  
**TO COMMERCIAL PURCHASE AND SALE AGREEMENT**  
**Due Diligence Documents**

The following are the Due Diligence Documents with respect to Property located at:

*[Select only those items that apply to this transaction; the items not selected shall not apply to this Agreement]:*

- ☐ 1. Most recent property tax assessments and tax bills.
- ☒ 2. The most recent title insurance policy insuring the Property, including complete and legible copies of all documents (whether or not recorded) which are referenced therein as title exceptions.
- ☒ 3. The most recent Survey, ALTA (American Land Title Association) of the Property or if such a survey is not available, the most recent survey of the Property prepared by a licensed Tennessee surveyor.
- ☒ 4. All soil reports covering any of the Property.
- ☐ 5. All cruise reports of existing timber on the Property.
- ☐ 6. All plans and specifications for Property improvements, including without limitation, diagrams of any outdoor irrigation system.
- ☐ 7. All existing leases and subleases (including concession and license agreements for use of space within the Property) and any amendments and letter agreements relating thereto, together with all correspondence to and from tenants, and a written summary of any leases currently in negotiation, specifying the tenant, premises to be leased, rents, and term and outlining all other material deal points.
- ☐ 8. All current insurance policies, together with a written summary of insurance coverage and premiums by policy type.
- ☐ 9. All certificates of occupancy.
- ☐ 10. All contractor, vendor, manufacturer and other warranties with respect to all real property improvements, fixtures, equipment and personal property to be conveyed.
- ☐ 11. All equipment leases and services and vendor contracts (including all amendments and side-letter agreements relating thereto).
- ☐ 12. All environmental (hazardous substances), engineering, physical inspection, marketing and feasibility studies, assessments and reports, including any wetlands reports.
- ☐ 13. A current rent roll for the Property together with monthly income and expense reports for the period of Seller's ownership of the Property (or for the previous 36 months if shorter).
- ☒ 14. A written summary of all pending or threatened litigation, insurance claims and notices of legal violations, together with the pertinent notices, demands, pleadings and other documents.
- ☐ 15. All reports, assessments or studies regarding actions required to bring the Property into compliance with the American Disabilities Act or any similar state statute or local ordinance or code.
- ☐ 16. A schedule of special assessment districts and assessment amounts, if any.
- ☒ 17. A schedule of impact fees paid or owing on the Property, if any.
- ☐ 18. A schedule of allowances or rebates due on tenant improvements, if any, and proof of insurance from individual tenants (including, as tenants, any space concessionaires of licensees).
- ☐ 19. All maintenance records for the Property.
- ☐ 20. All municipal, county, state or federal permits, licenses and authorizations affecting the use, operation and maintenance of the Property.
- ☐ 21. Other: \_\_\_\_\_
- ☐ 22. Other: \_\_\_\_\_
- ☐ 23. Other: \_\_\_\_\_

Seller Initials

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Buyer

Initials

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**EXHIBIT "C"**  
**TO COMMERCIAL PURCHASE AND SALE AGREEMENT**  
**Additions to Seller's Closing Documents**

*[Select only those items that apply to this transaction; the items not selected shall not be part of the Seller's Closing Documents]:*

- ☐ 1. **Architectural Plans.** An Assignment of Seller's rights, if any, to any architectural drawings and site plans for the Property and blue lined copies of such drawings and plans (to the extent in Seller's possession).
- ☐ 2. **Assignment of Contracts.** Duly executed and acknowledged Assignment of Contracts assigning and conveying to Buyer the Seller's interest in, to and under the assignable Contracts and containing an indemnity by Seller in favor of Buyer for claims related to periods prior to the Closing and (if such Contracts are assumed by Buyer) containing an indemnity by Buyer in favor of Seller related to the period after the Closing.
- ☐ 3. **Assignment of Leases.** Duly executed and acknowledged Assignment of Leases assigning and conveying to the Buyer the Landlord's interest in, to and under the Leases and containing an indemnity by Seller in favor of Buyer for claims by tenants arising prior to the Closing, and an indemnity by Buyer in favor of Seller for claims by tenants arising after the Closing.
- ☐ 4. **Assignment of Licenses.** An Assignment of any and all municipal, county, state or federal permits or licenses, as and if existing and if transferable, held or controlled by the Seller, relating to the Property.
- ☐ 5. **Assignment of Name Rights.** An Assignment of Seller's rights with respect to the name
- ☐ 6. **Assignment of Security Deposits.** An Assignment of all Security Deposits being held by Seller or the agents of Seller with respect to the Property to Buyer.
- ☐ 7. **Bill of Sale.** Duly executed and acknowledged Limited Warranty Bill of Sale conveying to Buyer good and marketable title to the Personal Property (and to the improvements to the extent they could be determined to be personal property), free of all liens, security interests and encumbrances.
- ☐ 8. **Estoppel Certificates.** Estoppel Certificates from all existing commercial tenants, concessionaires and licensees in the Property, if any, in form and content acceptable to Buyer and dated no earlier than thirty (30) days prior to Closing (but excluding individual tenant leases).
- ☐ 9. **Keys and Records.** All of the keys to any doors or locks on the Property and the original tenant files and other books and records relating to the Property in Seller's possession.
- ☐ 10. **Leases and Contracts.** Original executed counterparts of the Leases and Contracts, to the extent Seller or its manager have such original executed counterparts in their possession as of the Closing Date.
- ☐ 11. **Notice to Tenants.** A letter executed by the Seller in a form approved by Buyer and addressed to all tenants under the Leases, notifying such tenants of the change in ownership of the Property and directing that payment of all rent and other sums due from such tenants from and after the Closing Date be made to Buyer or such other party as Buyer may direct. (It shall be the responsibility of Seller to deliver such letters to the tenants.)
- ☐ 12. **Rent Roll.** A complete and accurate rent roll (the "Rent Roll") for the Property updated to the date of Closing and certified to be true and correct by Seller at Closing.
- ☐ 13. **Transfer Tax Declarations and other Tax Documents.** A transfer tax declaration and all such other tax documents as may be required of Seller in order to enable Buyer to make an appropriate 1099 filing.

Seller Initials

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Buyer

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Initials

**EXHIBIT "D"**  
**TO COMMERCIAL PURCHASE AND SALE AGREEMENT**  
**Seller's Warranties and Representations**

*(Select only those items that apply to this transaction; the items not selected shall not be part of this Agreement. Each item selected shall be deemed material for purposes of Buyer's Remedies under Seller's Representations and Warranties Paragraph of the Purchase and Sales Agreement)*

- ☐ 1. **Accounts Payable.** There is no outstanding accounts payable relating to the Property that would be binding on Buyer.
- ☒ 2. **Authority.** Seller has the right, power and authority to enter into this Agreement and to convey the Property in accordance with the terms and conditions of this Agreement; and the persons executing this Agreement on behalf of Sellers have been duly and validly authorized by Seller to execute and deliver this Agreement and have the right, power and authority to enter into this Agreement and bind Seller.
- ☒ 3. **Bankruptcy.** Seller represents and warrants that Seller is solvent and has not made a general assignment for the benefit of creditors or been adjudicated a bankrupt or insolvent, nor has a receiver, liquidator or trustee of Seller or any of its respective properties (including the Property) been appointed or a petition filed by or against Seller for bankruptcy, reorganization or arrangement pursuant to the Federal Bankruptcy Act or any similar federal or state statute, or any proceeding instituted for the dissolution or liquidation of Seller.
- ☐ 4. **Certificates.** To the best of Seller's knowledge, there are presently in effect permanent certificates of occupancy, licenses and permits as may be required for the Property and, to the best of Seller's knowledge, the present use and occupation of the Property is in compliance and conformity with the certificates of occupancy and all licenses and permits. There has been no notice or request of any municipal departments, insurance company or board of fire underwriters (or organization exercising functions similar thereto) or mortgage directed to Seller and requesting the performance of any work or alteration in respect to the Property which has not been complied with.
- ☒ 5. **Condemnation.** Seller has not been notified that any condemnation or other taking by eminent domain of the Property or any portion thereof has been instituted and, to the best of Seller's knowledge, there are no pending or threatened condemnation or, eminent domain proceedings (or proceedings in the nature or in lieu thereof) affecting the Property or any portion thereof for its use.
- ☐ 6. **Conditions of Improvements.** Seller is not aware of any structural or other defects, latent or otherwise, in the Improvements. The heating, ventilating, air-conditioning, electrical, plumbing, water, storm drainage and sanitary sewer systems are in working order, and Seller is not aware of any material defects or deficiencies therein.
- ☒ 7. **Declarations.** To the best of Seller's knowledge, there is no default, or any event which with the passage of time or notice, or both, would constitute a default or breach on the part of the Seller under any declaration of easements and/or restrictive covenants affecting the Property; and, to the best of Seller's knowledge, there is no default, or claim of default, or any event which with the passage of time or notice, or both, would constitute a default or breach there under on the part of any other party whose property is encumbered by or benefits from any declaration.
- ☒ 8. **Hazardous Substances.** To the best of Seller's knowledge (i) no "hazardous substances", or any other pollutants, toxic materials, or contaminants have been or shall prior to Closing be discharged, (ii) no underground storage tanks are located on the Property or where located on the Property and subsequently removed or filled, (iii) the Property has not previously been used as a gas station, cemetery, landfill, or as a dump for garbage or refuse, and (iv) the Property has not previously been and is not currently in violation of the Tennessee or Federal Environmental Protection Standards. Seller has not received any notice or demand from any governmental or regulatory agency or authority requiring Seller to remove any hazardous substances or contaminants or toxic materials from the Property.

Seller Initials

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Buyer

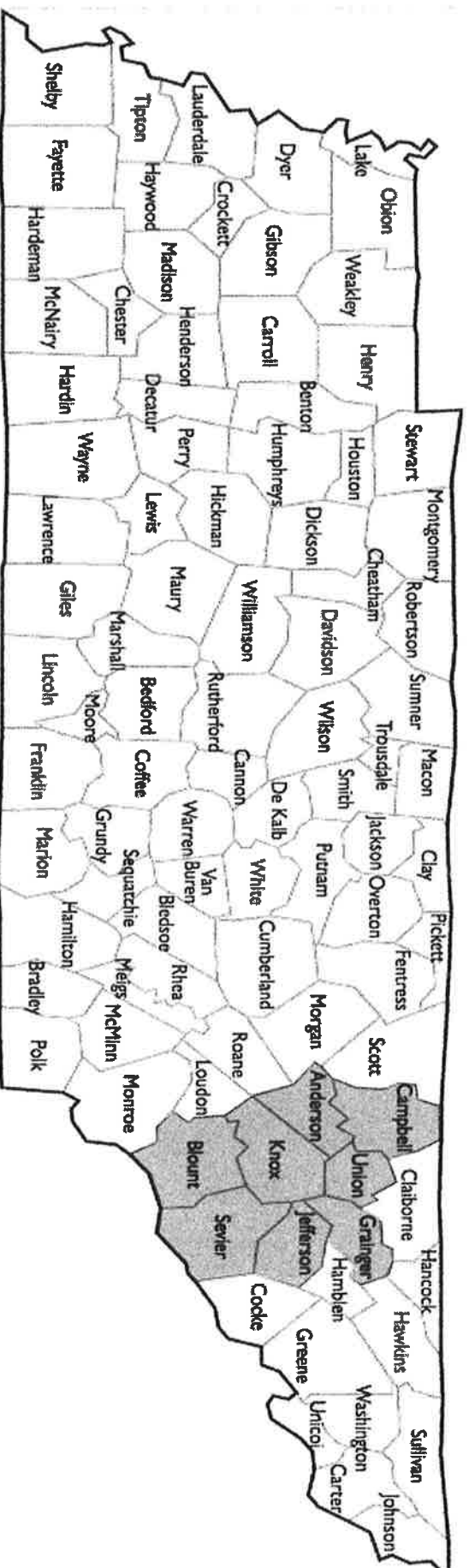
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Initials

## **Attachment Section B-Need-3**

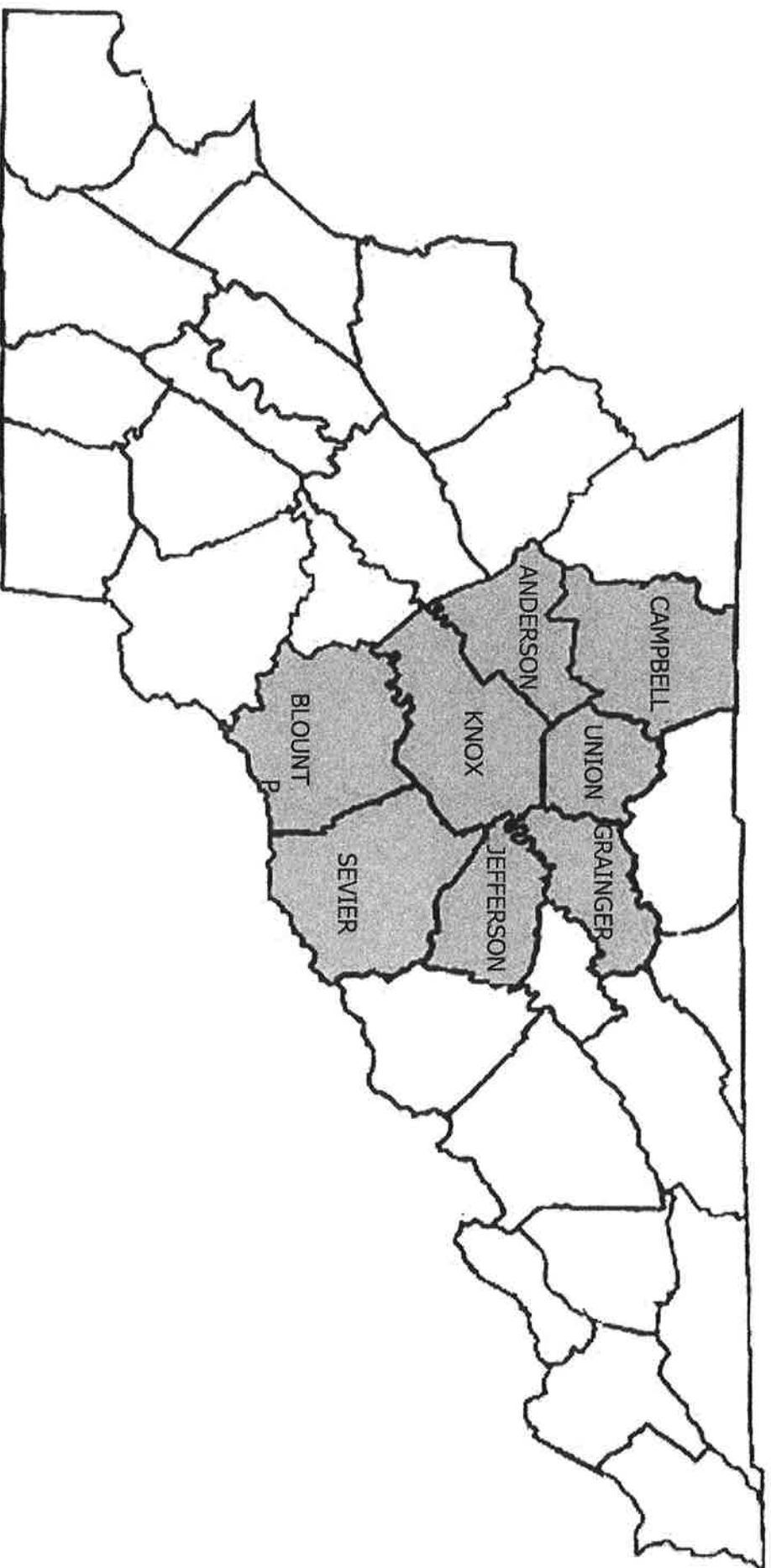
### **Service Area**

## County Level Map



# PRIMARY SERVICE AREA

## EYE SURGERY CENTER OF KNOXVILLE



**Attachment Section B-Economic  
Feasibility-1**

**Documentation of Construction Cost  
Estimate**



October 6, 2016

Ms. Melanie M. Hill-Executive Director  
Tennessee Health Services & Development Agency  
502 Deaderick Street  
Andrew Jackson Bldg., 9<sup>th</sup> Floor  
Nashville, TN 37243

**RE: Eye Surgery Center of Knoxville-Dannaher Drive, Powell, TN (Knox County)**  
**Project: Single Specialty-Ophthalmic Ambulatory Surgical Treatment Center (ASTC)**  
**Documentation for CON Application**

Dear Ms. Hill:

On behalf of our client, Eye Surgery Center of Knoxville, LLC we are pleased to address certain issues related to the proposed new construction of the above-referenced project.

**Description of the Project-**The proposed ASTC will be a single-specialty facility limited to eye surgery procedures and limited to patients not requiring general anesthesia. The proposed ASTC facility will be new construction to be located on approximately 1.6 acres of land on Dannaher Drive in Powell, TN. Based on our preliminary floor plan and plot plan showing the building design (also being submitted with the CON Application) the total space for the ASTC will be approximately 4,200 square feet. The proposed ASTC space includes two (2) operating rooms, one (1) laser room, waiting room and reception area, business office, Pre-Op/Post-Op Area with three (3) pre-op stations, four (4) post-op/PACU stations, and a semi-private pre-op/post-op station supervised by a central nursing station, consult room, equipment storage room, and other appropriate support areas. Please refer to floor plan for the project for additional information.

**Estimate of Project Construction Cost-**Based on our previous experience and knowledge with the construction of medical buildings and healthcare facilities and considering the current healthcare construction cost market for similar projects, it is our professional opinion that a

projected construction cost of \$735,000 (exclusive of land and site development costs) is a reasonable estimate for the ASTC facility. This is based on our preliminary floor plan design of approximately 4,200 gross square feet at a construction cost rate of \$175.00 per square foot. The site development costs are estimated at \$95,000 based on our proposed site design layout and plot plan which provides for thirty-seven (37) regular parking spaces and four (4) handicapped parking spaces. In addition, we have recommended a contingency amount of an additional \$100,000 for construction and site development costs for the project.

**Suitability of Site for Proposed Project-**The site for the proposed project is well suited for the planned ASTC development. As indicated on the plot plan submitted, the site is located in Knox County on Dannaher Drive, Powell, TN on a 1.6 acre parcel that is adjacent to the Tennova North Hospital campus. The Dannaher Drive site is located across the street from two of the ophthalmic medical practices associated with the project in the Southeast Eye Center-Medical office building at 7800 Conner Rd, Powell, TN. The close proximity of the ASTC site to the ophthalmic clinics will provide convenience for the physicians and their patients needing eye surgery. The proposed ASTC site has good accessibility to US Interstate-75 and other major highways and roads that serve the greater Knoxville Metropolitan Service Area and primary service area for the project (Knox County and seven other nearby counties). See Accessibility Map which accompanies this letter. The plot plan indicates access to the site is available from both Dannaher Drive and an existing ancillary road. The parcel has a designated water retention area of approximately 0.6 acres so the remaining acreage (1.0 acres) was utilized for designing the site and facility design layout. In summary, the proposed site is well suited in all aspects for the ASTC facility being considered for development.

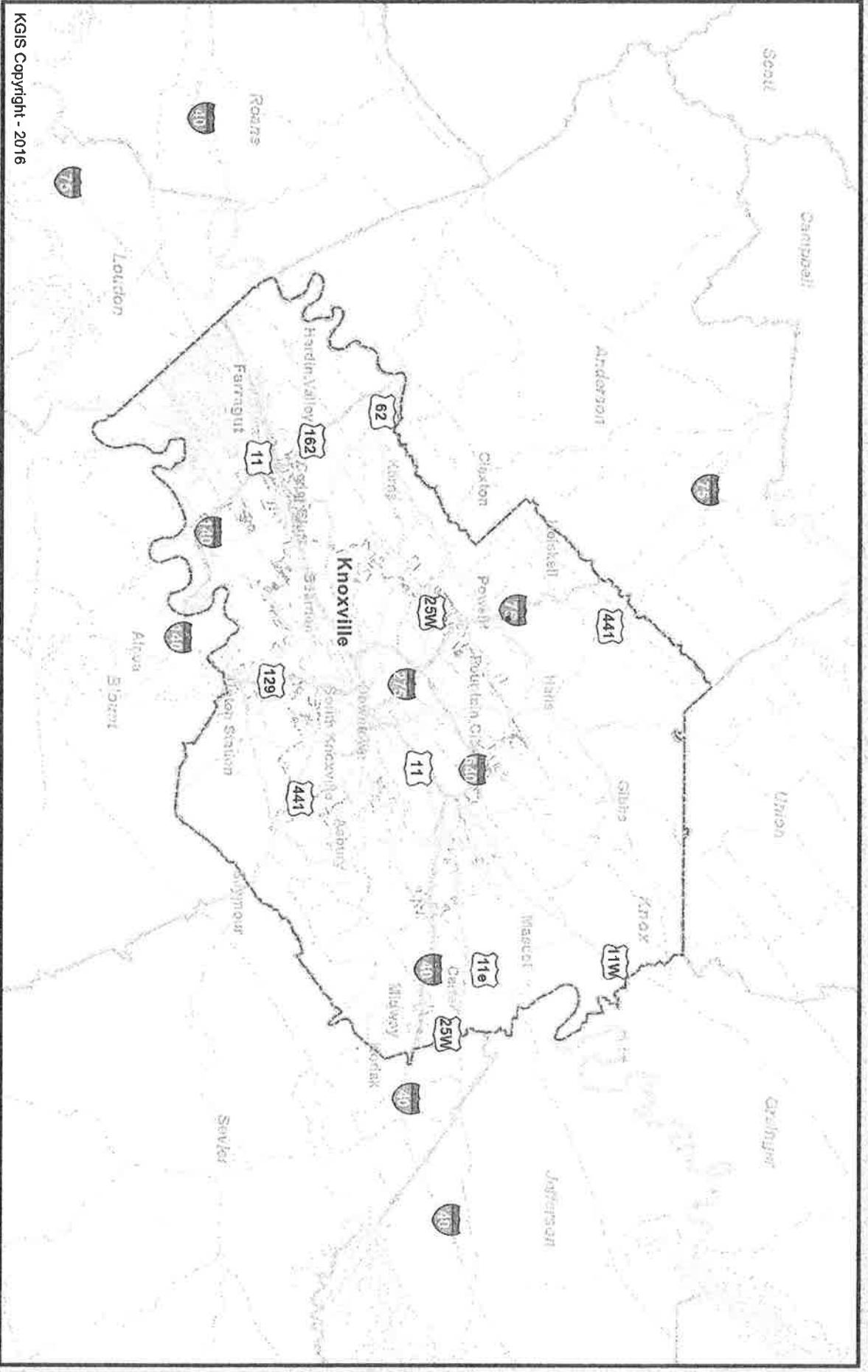
**Attestation-** We attest that the physical environment and all aspects of the ASTC project will conform to all applicable federal standards, manufacturer's specifications, and licensing agencies' requirements including the AIA Guidelines for Design and Construction of Hospital and Health Care Facilities in current use by the licensing authority.

Sincerely,



Brian Bullard, AIA, NCARB  
Principal - UrbanArch Associates, P.C.  
TN License #101492  
Uarch16021-UA\_CON\_ltr





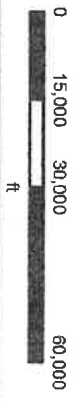
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# Eye Surgery Center of Knoxville

Dannaher Drive, Powell, TN 37849  
Accessibility to Proposed ASTC Site

## Knoxville - Knox County - KUB Geographic Information System

Printed: 9/20/2016 at 4:32:49 PM



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**Attachment Section B-Economic  
Feasibility-2**

**Documentation of Funding Resources for  
Project**



**First  
Citizens  
Bank**

forever first

September 28, 2016

Melanie M. Hill, Executive Director  
Tennessee Health Services and Development Agency  
Andrew Jackson State Office Building, Suite, 850  
500 Deaderick Street  
Nashville, Tennessee 37243

RE: Eye Surgery Center of Knoxville, LLC

Dear Mrs. Hill:

This letter is to provide assurance that First-Citizens Bank & Trust Company is familiar with Eye Surgery Center of Knoxville, LLC's project, which is seeking Certificate of Need ("CON") approval.

The Bank has already provided a \$150,000.00 line of credit at an interest rate of prime (currently 3.50%) to support the CON process and other organizational and start-up costs for the project.

We understand that the financing to complete the project upon CON approval would require additional funding of approximately \$1,700,000.00. Upon submittal and approval of a formal financing application, we would expect to be able to provide the additional funding for both construction and permanent financing for this project. The total Bank commitment with the existing line of credit and the additional loan package would be approximately \$1,850,000.00 for the project.

The additional loan package on this project would of course reflect market conditions at the time of loan approval. Currently, we would expect to finance this type of project at an interest rate of approximately 3.00% for a term of 15 years (monthly payments based on a 20 year amortization) for the real estate portion-estimated to total \$1,200,000.00. We would expect to finance the equipment portion, estimated to total \$500,000.00, of the project for up to 7 years. Currently the fixed rate of interest on this equipment portion would be 3.15% with 84 monthly payments.

We look forward to helping with the financing of this project.

Sincerely,

Ken Richardson  
Senior Vice President  
Knoxville Tennessee Manager Business Banking

**Attachment Section B-Economic  
Feasibility-6A**

**Financial Statements**

**Eye Care Surgery Center of Knoxville, LLC**  
**Balance Sheet**  
**Unaudited-Cash Basis**

**As of 8/31/2016\***

**ASSETS**

<b>Cash</b>	<b>\$ 14,051.58</b>
<b>Organizational Costs</b>	<b>\$ 6,570.60</b>
<b>TOTAL ASSETS</b>	<b>\$ 20,622.18</b>

**LIABILITIES & EQUITY**

**Liabilities**

<b>Note Payable-Line of Credit First Citizens Bank**</b>	<b>\$ 20,000.00</b>
<b>TOTAL LIABILITIES</b>	<b>\$ 20,000.00</b>

**Equity**

<b>Capital Contributions-Members</b>	<b>\$ 21,000.00</b>
<b>Net Earnings (Deficits)</b>	<b>\$ (20,377.82)</b>
<b>TOTAL EQUITY</b>	<b>\$ 622.18</b>

<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>\$ 20,622.18</b>
---------------------------------------	---------------------

\* Inception date 5/24/2016

\*\* Total Line of Credit available-\$150,000 @ 3.5% interest rate (prime)

Note Payable represents \$20,000 drawn on line of credit as of  
8/31/2016.

**Eye Care Surgery Center of Knoxville, LLC**  
**Income Statement**  
**Unaudited-Cash Basis**

**Period 5/24/2016**  
**to 8/31/2016\***

**Revenues:**

**\$ -**

**Expenses:**

**Consulting Fees**

**\$ 20,000.00**

**Travel**

**\$ 224.82**

**Bank Finance Charges**

**\$ 153.00**

**Total Expenses**

**\$ 20,377.82**

**Net Income (Loss)**

**\$ (20,377.82)**

**\* Inception date 5/24/2016**

CENTER FOR SIGHT  
Balance Sheet  
07.11.16

CASH BASIS  
UNAUDITED

FINANCIAL STMT JUNE 2016

CHANGES  
JUNE 1, 2016 to  
JUNE 30, 2016

AS OF  
JUNE 30, 2016

COA Number		Last Period Balance	Accumulated Balance
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
101	Change Fund		\$160.00
102	Cash on Hand	1,899.11	8,764.13-
103	Cash In Bank	13,932.56	36,072.54-
104	Petty Cash		150.00
105	Kemper Money Fund		
<b>TOTAL CURRENT ASSETS</b>		<b>\$15,831.67</b>	<b>\$44,526.67-</b>
<b>FIXED ASSETS</b>			
106	Furniture, Fixtures, Equipme		\$501,613.21
108	Leasehold Improvements		
110	Automobile		
111	Allowance for Depr		441,224.76-
<b>TOTAL FIXED ASSETS</b>			<b>\$60,388.45</b>
<b>OTHER ASSETS</b>			
115	Prepaid Payroll Taxes		
116	Prepaid Expenses		
117	prepaid ins		
120	Prepaid Corp Income Tax		
125	MC/VISA/AM EKP		
131	Employee Accts Receivable		
135	COMPUTER SOFTWARE		
140	Computer Software		
141	Amortization Computer Softw		
153	new building		3,333.00
156	ADVANCE TO STOCKHOLDERS		
160	Misc. receivables		6,229.60
<b>TOTAL OTHER ASSETS</b>			<b>\$9,562.60</b>
<b>TOTAL ASSETS</b>		<b>\$15,831.67</b>	<b>\$25,424.38</b>

CENTER FOR SIGHT  
Balance Sheet  
07.11.16

CASH BASIS

UNAUDITED

FINANCIAL STMT JUNE 2016

CHANGES  
JUNE 1, 2016 to  
JUNE 30, 2016

As of  
JUNE 30, 2016

-----  
COA Number Last Period Balance Accumulated Balance  
-----

LIABILITIES & STOCKHOLDERS EQUITY

LIABILITIES

200	Accounts Payable		
201	FICA Tax Withheld		
202	WH Tax Withheld		0.50-
203	Employee Insurance	9.30-	1,434.96
204	DEDUCTIONS EMPL DEPENDENT I	1,543.14	30,300.48
205	DEDUCTIONS/LEGAL/PAYABLE		250.00
206	EMPL DENTAL INS		
207	OMIC TAIL COVERAGE		1,080.00
210	Edger Lease Jeff City		
211	notes pyble topographer		
212	Notes Pyble A-Scan		
213	Notes Pyble Suntrust		
214	EQUIP LEASE		38,533.14
215	Accrued Federal Inc Tax		
216	new overdraft loan		33,000.00
217	DE LAGE LANDEN (IOL) MASTER;	505.78-	7,925.38
218	new loan account	2,953.23-	150,506.37
219	US BANKCORP NEXTGEN		
220	EQUIPMENT LEASE		
221	Personal Practice loan srf	914.39-	40,577.24
222	STEARNS BANK/HAG-STREIT (v	660.41-	1,331.42
223	RAULSTON LOAN	903.85-	47,601.03
230	Retirement Plan Payable		

TOTAL LIABILITIES

-----  
\$4,403.82-  
-----

-----  
\$352,539.52  
-----

STOCKHOLDERS EQUITY

300	Net Profit/Loss	\$20,235.49	\$75,568.74
301	Capital Stock		7,500.00
302	Retained Earnings		410,183.87-

TOTAL STOCKHOLDERS EQUITY

-----  
\$20,235.49  
-----

-----  
\$327,115.13-  
-----



CENTER FOR SIGHT  
Income Statement  
07.11.16

CASH BASIS  
UNAUDITED

For 1 Period(s) Of Operation.  
FINANCIAL STMT JUNE 2016

CHANGES  
JUNE 1, 2016 to  
JUNE 30, 2016

AS OF  
JUNE 30, 2016

COA Number

Last Period Balance Accumulated Balance

TOTAL LIABILITIES & EQUITY

\$15,831.67	10.3	\$25,424.39	1.3
=====		=====	

CENTER FOR SIGHT  
Income Statement  
07.11.16

CASH BASIS  
UNAUDITED

For 1 Period(s) Of Operation.  
FINANCIAL STMT JUNE 2016

COA Number		Last Period Balance		Accumulated Balance	
INCOME AND COSTS		JUNE 1 - JUNE 30 2016 (1 MONTH)		JULY 1 - 2015 to JUNE 30 - 2016 (12 MOS.)	
INCOME					
400	Purchase Discounts				
401	Collections/Income	153,737.81	99.7	1,890,352.58	99.0
402	Other Income	459.67	0.3	18,739.26	1.0
410	Gain on Disposal Assets				
415	Refunds	70.00-		327.80-	
425	Interest Income				
TOTAL INCOME		\$154,127.48	100.0	1,908,764.04	100.0
VARIABLE EXPENSES					
505	Purchases/contact lens	\$3,899.77	2.5-	\$52,686.33	2.8-
510	Purchases/optical. & supplies	6,768.70	4.4-	161,796.36	8.5-
515	Medical Supply/Drugs	352.14	0.2-	17,000.91	0.9-
516	Professional Entertainment				
520	Salaries/Staff	26,947.23	17.5-	367,119.04	19.2-
525	Taxes/Licenses	235.00	0.2-	7,957.15	0.4-
530	Employers FICA	4,603.67	3.0-	55,140.17	2.9-
535	Employee Retirement Plan				
540	Returned Checks	4.85-		44.15	
545	Equipment Rental			432.64	
550	Interest Expense	1,008.40	0.7-	12,265.15	0.6-
555	Insurance	9,706.31	6.3-	85,914.24	4.5-
557	Travel Expense			973.46	0.1-
558	Food Expense	112.04	0.1-	2,072.10	0.1-
560	Professional meetings			249.00	
TOTAL VARIABLE EXPENSES		\$53,628.41	34.8-	\$763,650.70	40.0-
FIXED EXPENSES					
570	gain/loss disp of equity				
605	Administrative Charges				
606	BANK CHGS LATE FEES;	793.98	0.5-	4,324.50	0.2-
610	Books, Dues, Subscriptions			7,114.17	0.4-

CENTER FOR SIGHT  
Income Statement  
07.11.16

For 1 Period(s) Of Operation.  
FINANCIAL STMT JUNE 2016

CASH BASIS

UNAUDITED

JUNE 1 to JUNE 30  
2016  
(1 month)

JULY 1, 2015

to  
JUNE 30, 2016 (12 mos.)

COA Number		Last Period Balance		Accumulated Balance	
612	Contributions	300.00	0.2-	400.00	
613	Depreciation				
614	Amortization Expense				
615	Equipment Lease	1,503.18	1.0-	16,534.98	0.9-
620	Legal / Accounting			6,475.00	0.3-
623	Life Insurance				
624	Computer supplies				
625	Office Supply	1,512.38	1.0-	19,841.61	1.0-
627	Parking				
630	Professional Services	1,516.36	1.0-	35,970.24	1.9-
632	Electronic Billing	5,700.13	3.7-	84,135.04	4.4-
635	CREDIT CARD MERCHANT FEES	1,326.65	0.9-	17,594.90	0.9-
640	Rent	21,504.66	14.0-	250,925.70	13.1-
645	Repairs/Maintenance	155.14	0.1-	5,792.54	0.3-
646	Maintenance Contracts	6,714.97	4.4-	88,631.88	4.6-
650	Telephone	1,003.47	0.7-	15,778.77	0.8-
660	Short/Over Expense				
TOTAL FIXED EXPENSES		\$42,030.92	27.3-	\$553,519.33	29.0-
INCOME BEFORE PHYSICIANS BENEFITS		\$58,468.15	37.9	\$591,594.01	31.0
total Dr. Benefits		\$38,232.66	24.8-	\$506,607.88	26.5-
Income Before Income Taxes		\$20,235.49	13.1	\$84,986.13	4.5
Income Taxes					
800	PENALTIES			\$2,135.58	0.1-
810	Federal Income Tax Expense			3,307.81	0.2-
820	Tenn Excise Tax			3,974.00	0.2-
TOTAL INCOME TAXES				\$9,417.39	0.5-
TOTAL INCOME (LOSS)		\$20,235.49	13.1	\$75,568.74	4.0

**CASH BASIS****UNAUDITED**

**East Tennessee Eye Surgeons, P.C.**  
**Balance Sheet**  
 As of June 30, 2016

	Total
<b>ASSETS</b>	
<b>Current Assets</b>	
<b>Bank Accounts</b>	
1000-00 Petty Cash	220.00
1003-00 Petty Cash - West Office	100.00
1005-00 Petty Cash - Sevierville Office	100.00
1015-00 Cash - Checking	71,090.31
1020-00 Cash - Payroll	461.42
1027-00 Cash - Money Market	61,659.28
<b>Total Bank Accounts</b>	<b>\$133,631.01</b>
<b>Other current assets</b>	
1030-00 Accounts Receivable - Dispensary	6,043.95
1035-00 Due from Dr. Williford	0.00
1035-02 Due from Dr. Dawson	655.14
1035-03 Due from Dr. Robinson	0.00
1035-04 Due from Dr. Gallaher	187.09
1036-00 Due from Dr. Francisco Moreno	0.00
1055-00 Employee Advances	1,500.00
1065-00 Inventory - Optical	27,707.18
1070-00 Inventory - Products	1,294.27
1075-00 Inventory - Vitamins	625.00
1100-00 Prepaid Federal Tax	517.00
1101-00 Prepaid TN F&E Tax	1,319.00
1200-00 Prepaid Rent	0.00
1210-00 Prepaid Expenses	0.00
<b>Total Other current assets</b>	<b>\$39,848.63</b>
<b>Total Current Assets</b>	<b>\$173,479.64</b>
<b>Fixed Assets</b>	
1500-00 Dispensary Equipment	18,849.59
1510-00 Software	66,004.99
1600-00 Furniture & Fixtures	248,441.12
1700-00 Medical Equipment	444,652.55
1705-00 Leasehold Improvements	0.00
1707-00 Accumulated Depreciation	-705,318.12
1710-00 Accumulated Amortization	-62,609.86
<b>Total Fixed Assets</b>	<b>\$10,020.27</b>
<b>Other Assets</b>	
1720-00 Artwork	14,380.00
1730-00 Deposits	0.00
<b>Total Other Assets</b>	<b>\$14,380.00</b>
<b>TOTAL ASSETS</b>	<b>\$197,879.91</b>
<b>LIABILITIES AND EQUITY</b>	

CASH BASIS  
UNAUDITED

	Total
<b>Liabilities</b>	
<b>Current Liabilities</b>	
<b>Other Current Liabilities</b>	
2020-00 Profit Sharing Payable	0.00
2027-00 Accounts Payable - Dispensary	7,000.00
2030-00 Social Security Withheld	0.00
2035-00 Medicare Withheld	0.00
2040-00 Federal Taxes Withheld	0.00
2050-00 Employee Garnishment Payable	0.00
2060-00 Employee Pension Payable	0.00
2070-00 Sales Tax Payable	480.00
2080-00 N/P - Dr. Dawson	0.00
2081-00 N/P - Dr. Robinson	0.00
2090-00 Due to Center for Sight	0.00
2091-00 Due to Southeastern Retina Associates	0.00
2092-00 Due to Marco	0.00
<b>Total Other Current Liabilities</b>	<b>\$7,480.00</b>
<b>Total Current Liabilities</b>	<b>\$7,480.00</b>
<b>Total Liabilities</b>	<b>\$7,480.00</b>
<b>Equity</b>	
3000-00 Common Stock	1,000.00
3001-00 Opening Balance Equity	0.00
3010-00 Retained Earnings	81,664.85
Net Income	107,735.06
<b>Total Equity</b>	<b>\$190,399.91</b>
<b>TOTAL LIABILITIES AND EQUITY</b>	<b>\$197,879.91</b>

Thursday, Sep 22, 2016 02:24:19 PM PDT GMT-4 - Cash Basis

This report was created using QuickBooks Online Plus.

CASH BASIS  
UNAUDITED

East Tennessee Eye Surgeons, P.C.  
Profit and Loss  
January - June, 2016

	Total
<b>Income</b>	
4001-00 Fees Received	1,037,062.77
4031-00 Patient Refunds	-3,875.66
<b>Total Income</b>	<b>\$1,033,187.11</b>
<b>Cost of Goods Sold</b>	
7000-00 Cash Collections	-92,170.70
7100-00 Change in Receivables	-20,983.35
7110-00 Refunds - Optical	879.95
7210-00 Discounts	18,468.11
7502-00 Purchases	16,750.11
7502-01 Change in Payables	321.37
7510-00 Lab Fees - Optical	26,541.15
8755-00 Rent - Optical	12,221.23
8800-00 Salaries - Optical	30,348.69
8805-00 Bonuses - Optical	1,647.93
8850-00 Supplies - Optical	655.70
8910-00 Taxes - Payroll - Optical	2,260.56
9000-00 Retail Product Sales	-1,904.85
9005-00 Vitamin Sales	-2,164.93
9100-00 Retail Product Purchases	674.31
9105-00 Vitamin Purchases	1,336.00
<b>Total Cost of Goods Sold</b>	<b>\$ -5,118.72</b>
<b>Gross Profit</b>	<b>\$1,038,305.83</b>
<b>Expenses</b>	
5010-00 Advertising	21,145.93
5015-00 Amortization Expense	689.45
5030-00 Automobile Expense	1,061.90
5070-00 Bank Charges	9,798.36
5110-00 Continuing Education	2,156.91
5210-00 Cable Television	797.32
5270-00 Contacts & Supplies	10,123.58
5280-00 Contract Labor	573.55
5320-00 Depreciation	1,283.30
5400-00 Dues & Subscriptions	942.24
5500-00 Equipment Rent	360.00
5570-00 Flowers and Gifts	707.43
5700-00 Insurance - General Liability	8,797.67
5720-00 Insurance - Health and Life	46,586.11
5970-00 Legal & Professional Fees	26,990.72
6010-00 Maintenance Agreements	31,154.85
6015-00 Maintenance & Repairs	1,790.49
6050-00 Meals & Entertainment	1,212.01
6051-00 Meals & Entertainment - Staff	3,303.12
6080-00 Medical Supplies	31,297.56

CASH BASIS  
UNAUDITED

	Total
6200-00 Office Expenses	8,683.33
6220-00 Office Refreshments	2,162.13
6370-00 Postage	2,679.53
6400-00 Printing	3,545.18
6550-00 Rent	115,708.81
6550-01 Rent - Storage	2,447.23
6600-00 Salaries	312,284.47
6630-00 Seminars	150.00
6700-00 Taxes - Payroll	24,972.07
6710-00 Taxes - Federal Unemployment	723.67
6720-00 Taxes - State Unemployment	73.12
6730-00 Taxes - Federal Income Tax	600.00
6750-00 Taxes - Other	1,600.55
6780-00 Taxes - State Franchise & Excise	1,400.00
6800-00 Telephone	18,274.78
6890-00 Uniforms Expense	4,287.83
<b>Total Expenses</b>	<b>\$700,365.20</b>
<b>Net Operating Income</b>	<b>\$337,940.63</b>
<b>Other Income</b>	
6001-00 Interest Income	102.22
<b>Total Other Income</b>	<b>\$102.22</b>
<b>Other Expenses</b>	
5725-00 Salaries - Physicians	195,000.00
5725-01 Deferred Compensation - Physicians	6,842.74
5726-00 Payroll Taxes - Physicians	12,523.25
5750-00 Insurance - Health and Life - Physicians	15,941.80
<b>Total Other Expenses</b>	<b>\$230,307.79</b>
<b>Net Other Income</b>	<b>\$ -230,205.57</b>
<b>Net Income</b>	<b>\$107,735.06</b>

Thursday, Jul 21, 2016 02:41:51 PM PDT GMT-4 - Cash Basis

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**AddicksCPA** firm LLP

**ACCOUNTANT'S COMPILATION REPORT**

May 31, 2016

Steven L. Sterling, MD, PC  
Knoxville, Tennessee

Management is responsible for the accompanying financial statements of STEVEN L. STERLING, M.D., P.C. (an S-corporation), which comprise the statement of assets, liabilities, and equity—modified cash basis as of March 31, 2016 and March 31, 2015, and the related statement of revenues, expenses, and retained earnings—modified cash basis for the three months then ended, and for determining that the modified cash basis of accounting is an acceptable financial reporting framework. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the financial statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any form of assurance on these financial statements.

The financial statements are prepared in accordance with the modified cash basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

Management has elected to omit substantially all the disclosures ordinarily included in financial statements prepared in accordance with the modified cash basis of accounting. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the Company's assets, liabilities, equity, revenues, and expenses. Accordingly, the financial statements are not designed for those who are not informed about such matters.

*J. Whitely Allen CPA*

Addicks CPA Firm LLP



# COMPARATIVE STATEMENTS OF ASSETS, LIABILITIES AND EQUITY - MODIFIED CASH BASIS

Steven L. Sterling, MD, PC

March 31, 2016 and March 31, 2015

	March 31,		Increase
	2016	2015	(Decrease)
<u>ASSETS</u>			
<u>CURRENT ASSETS</u>			
Cash	\$ 59,973.06	\$ 31,927.63	\$ 28,045.43
Due from shareholder	537.49	537.49	-
<b>TOTAL CURRENT ASSETS</b>	<b>\$ 60,510.55</b>	<b>\$ 32,465.12</b>	<b>\$ 28,045.43</b>
<u>PROPERTY AND EQUIPMENT</u>			
Office furniture	\$ 44,597.73	\$ 44,597.73	\$ -
Equipment	393,782.36	383,539.86	10,242.50
Automobile	36,084.98	36,084.98	-
	\$ 474,465.07	\$ 464,222.57	\$ 10,242.50
Less accumulated depreciation	473,028.48	461,828.28	11,200.20
	\$ 1,436.59	\$ 2,394.29	\$ (957.70)
<b>TOTAL ASSETS</b>	<b>\$ 61,947.14</b>	<b>\$ 34,859.41</b>	<b>\$ 27,087.73</b>
<u>LIABILITIES AND STOCKHOLDER'S EQUITY</u>			
<u>CURRENT LIABILITIES</u>			
Due to retirement account	\$ -	\$ (3,125.90)	\$ 3,125.90
<b>TOTAL CURRENT LIABILITIES</b>	<b>\$ -</b>	<b>\$ (3,125.90)</b>	<b>\$ 3,125.90</b>
<u>STOCKHOLDER'S EQUITY</u>			
Common stock - no par value			
Authorized - 2,000 shares			
Issued and outstanding - 100 shares	\$ 1.00	\$ 1.00	\$ -
Retained earnings	61,946.14	37,984.31	23,961.83
	\$ 61,947.14	\$ 37,985.31	\$ 23,961.83
<b>TOTAL LIABILITIES AND STOCKHOLDER'S EQUITY</b>	<b>\$ 61,947.14</b>	<b>\$ 34,859.41</b>	<b>\$ 27,087.73</b>

See accountant's compilation report.

COMPARATIVE STATEMENTS OF REVENUES, EXPENSES, AND RETAINED EARNINGS - MODIFIED CASH BASIS

Steven L. Sterling, MD, PC

Three months ended March 31, 2016 and March 31, 2015

	January 1 - March 31,		Increase
	2016	2015	(Decrease)
<b>REVENUE</b>			
Professional fees - net of refunds	\$ 317,281.74	\$ 280,240.49	\$ 37,041.25
<b>OPERATING EXPENSES</b>			
Advertising and promotion	\$ 880.20	\$ 4,588.20	\$ (3,708.00)
Automobile	673.21	341.91	331.30
Clinical supplies	5,088.71	3,484.50	1,604.21
Contact lenses	542.85	1,849.83	(1,306.98)
Contributions	-	999.00	(999.00)
Lab fees	1,900.00	464.00	1,436.00
ReSTOR lenses - cost	8,648.00	10,053.50	(1,405.50)
Comanagement - Other	5,756.49	2,946.68	2,809.81
Bank Service Charges	1,892.81	2,530.24	(637.43)
Depreciation	159.62	266.04	(106.42)
Insurance - Health and health savings contributions	19,056.17	12,994.53	6,061.64
Insurance - Malpractice	1,874.00	1,900.00	(26.00)
Miscellaneous	1,138.98	46.82	1,092.16
Office	17,656.37	12,577.38	5,078.99
Professional fees	6,150.00	10,500.00	(4,350.00)
Contract labor	4,334.05	4,496.64	(162.59)
Rent	19,057.94	14,760.08	4,297.86
Retirement plan - staff	2,335.25	(1,605.55)	3,940.80
Salaries - staff	63,156.42	68,929.94	(5,773.52)
Taxes - general	-	1,309.00	(1,309.00)
Taxes - payroll	5,559.74	6,576.40	(1,016.66)
Telephone	4,697.86	4,888.42	(190.56)
Uniforms	1,812.69	675.87	1,136.82
<b>TOTAL OPERATING EXPENSES</b>	\$ 172,371.36	\$ 165,573.43	\$ 6,797.93
<b>OPERATING INCOME BEFORE PROFESSIONAL EXPENSES</b>	\$ 144,910.38	\$ 114,667.06	\$ 30,243.32
<b>PROFESSIONAL EXPENSES</b>			
Doctor's Salary	\$ 107,100.00	\$ 107,100.00	\$ -
Payroll taxes	8,298.18	8,193.15	105.03
Retirement plan	3,701.88	4,821.88	(1,120.00)
Professional Development	2,334.64	-	2,334.64
Travel, meals, & entertainment	2,087.11	5,116.07	(3,028.96)
<b>TOTAL PROFESSIONAL EXPENSES</b>	\$ 123,521.81	\$ 125,231.10	\$ (1,709.29)
<b>OPERATING INCOME</b>	\$ 21,388.57	\$ (10,564.04)	\$ 31,952.61
Other Income	-	-	-
Other Expense	-	-	-
Interest expense	-	(102.26)	102.26
<b>NET INCOME [\$213.89 per share]</b>	\$ 21,388.57	\$ (10,666.30)	\$ 32,054.87
Retained earnings at January 1	40,557.57	48,650.61	(8,093.04)
<b>Retained Earnings at March 31</b>	\$ 61,946.14	\$ 37,984.31	\$ 23,961.83

See accountant's compilation report.

**EYE CARE CENTERS, PLLC dba  
TENNESSE EYE CARE  
Balance Sheet**

**UNAUDITED**

	As of June 30, 2016
<b>Assets</b>	
<b>Cash &amp; Cash Equivalents</b>	
1st Citizens - General	\$ 96,373
1st Citizens - Merchant	77,549
US Bank - W-2 Payroll	17,747
US Bank - K1 - New Account	48,139
1st Bank - TN-Refunds	8,622
<b>Total Cash &amp; Cash Equivalents</b>	<b>\$ 248,430</b>
<b>Accounts Receivable</b>	
Insurance Receivable-Net of Adjustments	143,584
<b>Total Accounts Receivable</b>	<b>\$ 143,584</b>
<b>Physical Inventory</b>	
Retail - End of Year Inventory Count	260,781
<b>Total Physical Inventory</b>	<b>\$ 260,781</b>
<b>Fixed Assets</b>	
Leasehold Improvements	417,262
Fixed Asset- Furniture, Fixtures & Equip	3,049,800
Accumulated Depreciation-Fixed Assets	(3,236,718)
<b>Total Fixed Assets-Net</b>	<b>\$ 230,344</b>
<b>Intangible Assets</b>	
Goodwill	92,167
<b>Total Intangible Assets</b>	<b>\$ 92,167</b>
<b>Total Assets</b>	<b>\$ 975,306</b>
<b>Liabilities</b>	
<b>Accounts Payable</b>	
Accounts Payable	\$ 18,000
<b>Total Accounts Payable</b>	<b>\$ 18,000</b>
<b>Other Payables</b>	
Equipment Purchases Payable	9,050
<b>Total Other Payables</b>	<b>\$ 9,050</b>
<b>Long Term Liabilities</b>	
N/P - 1st Citizens 530k Lease Line	260,011
N/P - US Bank Corp EPIC	21,812
N/P - 1st Citizens 350k Build Out	45,481
N/P - 1st Citizens Morristown Equip Lease	113,073
N/P - 1st Citizens Line of Credit	57,000
N/P - OCT System	119,322
N/P - Photocoagulator	67,839
<b>Total Long Term Liabilities</b>	<b>\$ 684,538</b>
<b>Total Liabilities</b>	<b>\$ 711,588</b>
<b>Shareholders' Equity</b>	
Partners' Equity	(201,154)
Retained Earnings	229,335
Current Income	235,537
Partner Draws	-
<b>Total Shareholders' Equity</b>	<b>\$ 263,718</b>
<b>Liabilities &amp; Shareholders' Equity</b>	<b>\$ 975,306</b>

**EYE CARE CENTERS, PLLC dba  
TENNESSE EYE CARE  
Profit & Loss Statement**

**UNAUDITED**

	YTD (6 mos) June 30, 2016
<b>Sales</b>	
Patient Service Fees	\$ 3,207,520
Optical	841,083
Contact Lens	311,425
Other Medical Supplies	11,664
<b>Total Revenues</b>	<b>\$ 4,371,692</b>
 <b>Cost of Goods Sold</b>	
Cost of Goods Sold-Frames,Lenses,Optical & Contact Lens	589,012
<b>Total Cost of Goods Sold</b>	<b>\$ 589,012</b>
 <b>Gross Profit</b>	 <b>\$ 3,782,680</b>
 <b>Operating Expenses</b>	
Salaries and Wages	1,089,448
Physicians' Salaries and Wages	1,069,114
Employee Benefit Programs	208,699
Pension, profit-sharing, etc.plans	127,222
Supplies	125,488
Taxes	10,775
Rent	316,497
Repairs & Maintenance	83,094
Advertising & Promotion	6,309
Travel, Meals & Entertainment	27,856
Legal & Accounting	11,821
Professional Services	52,344
Computer Services	58,850
Insurance	19,244
Telephone & Utilities	184,468
Office Expenses	70,454
Dues & Subscriptions	15,658
General & Administrative Expenses-Other	14,860
<b>Total Operating Expenses</b>	<b>\$ 3,492,201</b>
 <b>Net Operating Income</b>	 <b>\$ 290,479</b>
 Depreciation & Amortization Expense	42,671
Interest Expense	12,271
<b>Total Depreciation &amp; Interest Expense</b>	<b>\$ 54,942</b>
 <b>Net Income</b>	 <b>\$ 235,537</b>

**Attachment Section-Contribution to  
Orderly Development-3A**

**Clinical Leadership & Human Resources  
for Project**

**October 7, 2016**

**Eye Surgery Center of Knoxville  
c/o Stephen R. Franklin, M.D.  
7800 Conner Rd.  
Powell, Tn. 37846**

**Re: Intent to provide anesthesia for Ambulatory Surgical Treatment Center (ASTC)**

**Gentlemen:**

**This letter is to confirm that I, Richard D. Deindorfer, CRNA/A.P.N. (along with associates to be named later), would be pleased to provide anesthesia coverage for the ophthalmic "ASTC" development project you are planning in Powell, Tennessee, subject to the contract negotiations after you have received approval of the Certificate of Need from TN Health Services & Development Agency.**

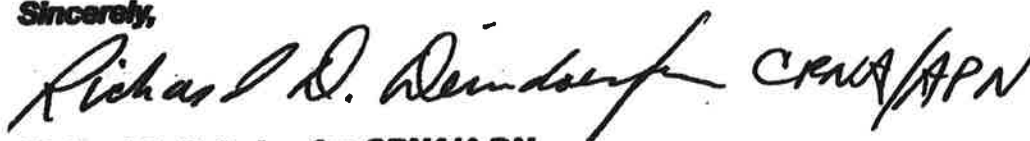
**I have provided professional anesthesia care for 30+ years, performing my own billing for the last 20+ years and been contracted with Tennessee Medicare/Medicaid, Blue Cross and TennCare and all appropriate health insurance companies. I plan to utilize a professional anesthesia billing company for this endeavor with ASTC.**

**I have been providing anesthesia services at Roane Medical Center, Harriman, TN, for the last 30 years and have had the pleasure of providing ophthalmic anesthesia for two of your participating owner physicians/surgeons-Dr. Tom Browning & Dr. Matt Lowrance. I have worked with Dr. Browning since 1990 and with Dr. Lowrance since 2013 when he became an associate of Dr. Browning and his practice.**

**I would like to thank you for the opportunity to be a part of this endeavor and do appreciate your trust and confidence to provide your anesthesia services for this exciting venture with Eye Surgery Center of Knoxville-ASTC.**

**If I can be of any assistance to facilitate and expedite this endeavor, please contact me at 865-803-3289. I am looking forward to providing professional anesthesia care for your patients.**

**Sincerely,**



**Richard D. Deindorfer, CRNA/A.P.N.  
12186 Paw Paw Plains Road  
Lenoir City, TN 37771**

**TN Nreg. License # - RN0000051726**

**TN Advanced Practice Nurse # - APN0000009103**

**AANA CRNA # - 37393**

## **Curriculum Vitae**

### **September 14, 2015**

**Name:** Stephen R. Franklin  
7800 Conner Rd  
Powell, TN 37849  
PH: 865-546-7140

**Date of Birth:** April 23, 1956

**Birthplace:** Oak Ridge, Tennessee

**Education:** The University of Tennessee-Knoxville, B.A. degree, 1978  
The University of Tennessee-Memphis, M.D. degree, 1982  
Rotating Internship, Baptist Memorial Hospital, Memphis,  
1982-83  
Residency in Ophthalmology, The University of  
Tennessee-Memphis, January 1985-87

**Professional License:** Tennessee-1982

**Boards:** Certified-American Board of Medical Examiners-1983  
Certified-American Board of Ophthalmology-1989

**Society Memberships:** Knoxville Academy of Medicine  
Tennessee Medical Association  
American Medical Association  
American Academy of Ophthalmology

**Current Status:** Private practice of general ophthalmology in association  
with K.L. Raulston, Jr., M.D. at Center For Sight, P.C.

**Hospital Privileges** Tennova North Knoxville Medical  
Tennova Jefferson Memorial-Courtesy

**Seminars (CME):**

Memphis Eye Convention, 1985 & 1986  
Aspen Anterior Segment Society, 1986  
American Academy of Ophthalmology, 1986  
American Academy of Ophthalmology, 1987  
Tennessee Academy of Ophthalmology, 1987  
American Academy of Ophthalmology, 1988  
Memphis Eye Convention, Spring 1989  
Tennessee Academy of Ophthalmology, 1990  
Memphis Eye Convention, 3/92  
West Virginia Academy of Ophthalmology,  
Precise Predictable Keratorefractive Surgery Course, 6/92  
University of Alabama Annual Scientific Meeting, 8/92  
University of Tennessee College of Medicine Alumni Weekend, 11/92  
Ophthalmology Residents Day, 3/93  
Memphis Eye Convention, 3/93  
Ophthalmic Trauma Update, 4/93  
System Update for Chiron Intraoptics, 2/94  
Advanced Keratorefractive Update, 2/94  
Ophthalmology Residents Day, 3/94  
Memphis Eye Convention, 3/94  
Current Concepts in Corneal and External Disease 2/95  
G.W. University Excimer Laser PRK Course, 2/96  
Global Vision Institute PRK Course, 2/96  
New Orleans Academy of Ophthalmology, 2/96  
New Orleans Academy of Ophthalmology-Peril to the Nerve Glaucoma 4/96  
New Orleans Academy of Ophthalmology-Advanced Phaco Wisdom 4/96  
John Hopkins/Wilmer Institute, 3/97  
VISXA Certification Course, 6/97  
General risk Management Seminar, 1997  
General risk Management Seminar, 1998  
General risk Management Seminar, 1999  
Advances in Ophthalmology, 10/99  
Hawaii Seminar, 2000  
Clinical Ophthalmology, 2001  
Video Symposium of Challenging Cataract and Their Management, 10/2001  
Pediatric Cataracts: Evaluation and Treatment, 10/2001



General Risk Management Seminar 7/02  
University of Texas Allergy Update 8/02  
University of Tennessee St. Mary's Tumor Board 12/03  
University of Tennessee CME Clinical Ophthalmology Conference 2/03  
General Risk Management Seminar 7/03  
University of Tennessee St. Mary's Tumor Board 1/04  
General Risk Management Seminar 7/04  
University of Tennessee St. Mary's Tumor Board 1/05  
The New York Eye and Ear Infirmary Ins Ophthalmology Grand Rounds 2/05  
Postgraduate Institute of Medicine Allergic Reaction 6/05  
Apodized Diffractive Lens Symposium Fort Worth 6/05  
General Risk Management Seminar 7/05  
The Dulaney Foundation Glaucoma Management in CL Wearers 9/05  
American Academy of Ophthalmology 10/05  
University of Pittsburgh School of Medicine Clinical Applications OCT 12/05  
The Dulaney Foundation Ocular Imaging For Glaucoma 11/05  
Retinopathy Reporter: An Expert Dialogue on Diabetic Retinopathy Summer 2006  
The Academy for Healthcare Education, Inc. Glaucoma 7/06  
The University of Florida Restasis 11/06  
General Risk Management 7/07  
Harvard Medical School Ophthalmology Rounds 8/07  
American Academy of Ophthalmology 11/07  
Aspen Corneal Society 2/08  
HealthStream Proper Prescribing Practices: Schedule II Prescription Drug Abuse 3/08  
2008 Joint Meeting in Atlanta, GA 11/08  
Office Risk Management for Physicians & Staff-7/09  
27th Annual Current Concepts in Ophthalmology 3/15/10-3/19/10  
2010 Managing Difficult Patients at UT Health Science Center 7/21/2010  
2010 Prescribing Practices: Understanding the Law and Reducing Risk 8/25/2010  
2010 Continuing Medical Education in Chicago, IL 10/15/2010-10/19/2010  
2011 Dealing with Difficult Colleagues 7/20/2011  
2012 American Academy of Ophthalmology AMA PRA category 1 credits 11/9-13  
2012 TMA Epidemic: Prescriber's Response to Tennessee's RX Drug Abuse Crisis 7/12/2012  
2013 SVMIC: Avoiding EHR Pitfalls-live #3088 Knoxville, TN 8/14/2013 2 AMA PRA credits  
2014 UT College of Med: Negotiating Difficult Healthcare Situations SVMIC Knoxville, TN 7/15/2014 2 credits  
2014 live activities AAO in Chicago, IL Oct 17-21, AMA PRA cat 1 credit  
2015 9 Habits of Safe and Effective Medical Practices 7/14/2015 2 hours CME/AMA

Curriculum Vitae  
Stephen R. Franklin  
Page Four

**Publications:**

**"Adjustable sutures in Strabismus Surgery," Annuals of Ophthalmology, August 1998.**

**"Evidence-Based Glaucoma: Practical Implications for Individualized Patient Care," Ocular Surgery News, June 2006**

**"Managing Posterior Blepharitis" NACCME, November 2006.**

**Presentations:**

**"Ophthalmic Laser Surgery," presented at St. Mary's Medical Center, March, 1988.**

**"Eye Trauma," presented to Emergency Nurses Association meeting at HCA Park West Medical Center, August, 1989.**

**"Eye Emergencies," presented to Trauma lecture Series at St. Mary's Medical Center, September, 1989.**

**"Use of Ophthalmoscope/Performing Accurate Visual Acuties," presented at East Tennessee Emergency Medical Symposium, Gatlinburg, Tennessee, March, 1990.**

**"Visual Field Test and Interpretation," presented at Tennessee Ophthalmology Personnel Society meeting, Gatlinburg, Tennessee, April 1990.**

**"Excimer Laser Correction of Nearsightedness," presented to Tennessee Dispensing Opticians Association, Knoxville, Tennessee, September, 1986.**

## **CURRICULUM VITAE**

**JOHN T. DAWSON, M. D.**

**5410 Mill Ridge Drive**

**Knoxville, TN 37919**

<b>Date of Birth:</b>	July 14, 1954	
<b>Citizenship:</b>	USA	
<b>Academic Degrees:</b>	Emory University	B.A. Jun 1976 – Aug 1980
	Medical College of Georgia School of Medicine	M.D. Sept 1981 – Jun 1985
<b>Internship:</b>	Medical College of Georgia (Transitional)	Jul 1985 – Jun 1986
<b>Residency:</b>	University of California, San Francisco (Ophthalmology)	Jul 1986 – Jun 1989
<b>Fellowship:</b>	Wilmer Institute, Johns Hopkins University (Cornea/Anterior Segment Surgery)	Jul 1989 – Jun 1990
<b>Practice Experience:</b>	East Tennessee Eye Surgeons	1990 – present
<b>Medical Licensure:</b>	Tennessee	1990
<b>Board Status:</b>	Board Certified	1991
<b>Honors:</b>	Valedictorian, Medical College of Georgia School of Medicine	1985
	Alpha Omega Alpha	1984 – present
	President, Georgia Alpha	1984 – 1985
	Knoxville CityView Magazine's List of Top Doctors	2009 – 2016
<b>Memberships:</b>	American Academy of Ophthalmology American Society of Cataract & Refractive Surgery Cordes Eye Society Knoxville Academy of Medicine/Tennessee Academy of Medicine Tennessee Academy of Ophthalmology	
<b>Personal:</b>	Married; one child	

## **Curriculum Vitae**

**Kevin Thomas Gallaher, M. D.**  
**109 W. Redbud Road**  
**Knoxville, TN 37920**  
**865.567.4174**  
**kevingallaher55@hotmail.com**

**DATE AND PLACE OF BIRTH:** Nashville, Tennessee      January 29, 1975

**LANGUAGE PROFICIENCY:** English

### **EDUCATION:**

University of Mississippi Medical Center      Jul 2007 – Jun 2011  
Jackson, Mississippi  
Ophthalmology Resident

University of Tennessee College of Medicine      Aug 2003 – Jun 2007  
Memphis, Tennessee  
Degree: M. D.

University of Tennessee      Aug 1994 - May 2001  
Knoxville, Tennessee  
Degree: B. S. Microbiology Major

**MEDICAL LICENSURE:** Tennessee, 2011

**BOARD CERTIFIED:** November, 2014

### **HONORS AND AWARDS:**

NIH MEDICAL STUDENT SUMMER RESEARCH GRANT      May 2005  
Alessandro Iannaccone, M. D., M. S., Research Preceptor

ASSOCIATION FOR RESEARCH IN VISION AND OPHTHALMOLOGY FOUNDATION/  
RETINA RESEARCH FOUNDATION: JOSEPH M./EULA C.      March, 2005  
LAWRENCE TRAVEL GRANT. ARVO,

Knoxville CityView Magazine's Top Doctors      2013 & 2016

### **PROFESSIONAL MEMBERSHIPS**

American Academy of Ophthalmology      Jul 2008 – Present  
American Medical Association      Jul 2007 – Present  
American Society of Cataract & Refractive Surgery      Jul 2008 – Present

## **CURRICULUM VITAE**

May 2016

### **PERSONAL:**

Steven Lloyd Sterling, MD  
2607 Kingston Pike, Ste 182  
Knoxville, Tennessee 37919

### **BORN:**

December 5, 1959  
Knoxville, Tennessee

### **EDUCATION:**

June 1977 – March 1979 – University of Tennessee  
Knoxville, Tennessee

June 1979 – May 1982 – University of Tennessee  
Chattanooga, Tennessee

August 1982 – June 1986 – University of Tennessee  
College of Medicine  
Memphis, Tennessee

July 1986 – June 1987 – Methodist Hospital  
Memphis, Tennessee  
Transitional Internship

July 1988 – June 1991 – University of Tennessee  
Memphis, Tennessee  
Residency

### **BOARD CERTIFICATION:**

October 1992 – American Board of Ophthalmology  
July 2003 – Recertification American Board of Ophthalmology  
July 2015 – Recertification American Board of Ophthalmology

### **STAFF APPOINTMENTS:**

January 2012 – Clinical Instructor in Ophthalmology  
UT College of Medicine  
Memphis, Tennessee

**EMPLOYMENT EXPERIENCE:**

July 1991 – November 1994 - Center for Eye Surgery  
200 New York Ave, Ste 140  
Oak Ridge, Tennessee  
November 24, 1994 – December 1997 – Steven L. Sterling, MD PC  
2020 Kay St  
Knoxville, Tennessee  
  
January 1, 1998 – April 30, 2004 – Baptist Eye Surgeons, PLLC  
2020 Kay Street  
Knoxville, Tennessee  
  
May 2004 – Present – Steven L. Sterling, MD PC  
2607 Kingston Pike, Ste 182  
Knoxville, Tennessee 37919

**MISSION EXPERIENCE:**

Associated with and supporter of World Cataract Foundation doing cataract Surgery in Ometepac, Mexico from 1989 -2014

**MEDICAL SOCIETIES:**

American Academy Ophthalmology  
American Society of Cataract and Refractive Surgery  
Tennessee Academy of Ophthalmology  
Tennessee Medical Association  
Knoxville Academy of Medicine

**PRESENTATIONS:**

Sterling, S, Wood, T: "*Effect of Intraocular Lens Convexity on Posterior Capsular Opacification*" presented at the Tennessee Academy of Ophthalmology, 1987

Sterling, Steven L., "*Overcoming Flomax – Suggested Strategies and Techniques*" Presented at the American Society of Cataract and Refractive Surgery, 2006

**PUBLICATIONS:**

Sterling, S, Wood, T: "*Effect of Intraocular Lens on Posterior Capsular Opacification*" Journal Cataract and Refractive Surgery, November 1986, 12:655-657

**HOBBIES:**

Boating, biking and snow skiing

## **CURRICULUM VITAE**

**Name:** **Thomas Anthony Browning, M.D.**  
10205 Thimble Fields Drive  
Knoxville, TN 37922  
(865) 777-0343

**Business Address:** **Eye Care Centers, PLLC dba  
Tennessee Eye Care**  
6354 Lonas Spring Drive  
Knoxville, TN 37909

**Education:**  
Academic College: August 1977- May 1981, University of Tennessee,  
Knoxville, TN  
B. S., Mechanical Engineering

Medical School August 1981- May 1985, University of Tennessee  
College of Medicine  
Memphis, TN – M. D.

**Internship:** July 1985-June 1986, Methodist Hospital,  
Memphis, TN

**Residency:** July 1986-May 1989,  
Residency in Ophthalmology  
University of Tennessee Hospital  
Memphis, TN

**Fellowship:** May 1989-Sept 1989,  
Medical Retina  
Vitreoretinal Foundation  
Memphis, TN

**Work History:** Sept 1989-January 1994, Joined  
Paul Wittke, M.D. Ophthalmic Associates  
Knoxville, TN

February 1994-Jan 1996, Board of Directors,  
Eye Corp, Inc.  
Memphis, TN

February 1994-May 2005, Partner,  
Vitreoretinal Foundation  
Memphis, TN

February 1994-December 2005, Medical Director  
for Anterior Segment Surgery Program & Clinical  
Training for Medical Retina  
Memphis, TN

August 1996-May 1998, Medical Director,  
Optometric Residency Program  
Memphis, TN

August 1998-Present, Partner,  
Eye Care Centers, PLLC dba  
Tennessee Eye Care  
Knoxville, TN

July 2009-May 2012, Associate Professor of  
Ophthalmology, Michigan State University  
Knoxville, TN

Oct 2009-Feb 2016, Director of Surgery,  
Bay Eyes Cataract & Laser Center, PC  
Bay Eyes Surgery Center, Inc.  
Fairhope, AL

**Medical Licensure:**

May 1986, Tennessee

**Board Certification:**

May 1986, National Board of Medical Examiners

May 1992, American Board of Ophthalmology

**Memberships:**

Tennessee Academy of Ophthalmology  
American Academy of Ophthalmology



## **Matthew D. Lowrance, DO**

[mlovrancedo@gmail.com](mailto:mlovrancedo@gmail.com)

### **EDUCATION/WORK EXPERIENCE**

---

Private Practice; Retina Specialist, Anterior Segment Surgeon (Current) Tennessee Eye Care	7/2013-Current
Founder and CEO; Tidal Key Group, LLC	6/2013-Current
Medical Director; Retinal Care, LLC	1/2015-Current
Fellowship; Medical Retina Bascom Palmer Eye Institute- University of Miami, Miller School of Medicine	7/2012-7/2013
Residency; Ophthalmology Michigan State University/Hillsdale Community Health Center	7/2009- 6/2012
Osteopathic Medicine Internship Michigan State University/Hillsdale Community Health Center	7/2008- 6/2009
Virginia College of Osteopathic Medicine, Blacksburg, Virginia Doctor of Osteopathic Medicine	7/2004- 6/2008
East Tennessee State University, Johnson City, Tennessee Post Baccalaureate Pre-Medicine Program	6/2002- 6/2003
North Georgia College and State University, Dahlonega, Georgia Bachelor of Arts, Music	8/1998- 12/2001

### **LICENSURE**

---

State of Tennessee	State of Alabama	State of Oklahoma (Pending)
State of Florida	State of Kentucky (Pending)	

### **FACULTY APPOINTMENTS**

---

University of Miami, Miller School of Medicine Clinical Instructor; Department of Ophthalmology	7/2012- 7/2013
Michigan State University College of Osteopathic and Human Medicine Clinical Instructor; Department of Neurology and Ophthalmology	7/2009- 7/2012

### **GRANT SUPPORT**

---

National Institutes of Health R01: A disposable polymer composite sensor film for preventing postoperative blindness \$1.9 million	2015- pending
Hillsdale Community Health Center The Current Concepts Program. \$8,750.00	2009-2010
Hillsdale Community Health Center The Current Concepts Program. \$5,000.00	2010-2011

**Lowrance, M.,** Benjamin, E., Gossage, D. Congenital simple hamartoma of the retinal pigment epithelium and the use of optical coherence tomography in demystifying this rare entity. *Accepted to the Clinical & Surgical Journal of Ophthalmology. June 2011.*

**Lowrance, M.,** Lowrance, C., Benjamin, E., Gossage, D. A quantitative measure of the effects of eyelid massage on the production of tears and a proposed osteopathic treatment technique for dry eyes. **1<sup>st</sup> Place.** *Poster presentation at the 95<sup>th</sup> Annual Clinical Assembly of the AOCOO-HNS, Tucson, Arizona. 2011.*

Benjamin, E., **Lowrance, M.,** Chu, R., Warner, N., Gossage, D. Conjunctival Optical Coherence Tomography as a New Technique in Giant Papillary Conjunctivitis Assessment and Correlated Treatment Study (CONTACTS). **2<sup>nd</sup> Place.** *Poster presentation at the 95<sup>th</sup> Annual Clinical Assembly of the AOCOO-HNS, Tucson, Arizona. 2011. Accepted to the Clinical & Surgical Journal of Ophthalmology August 2011*

**Lowrance, M.,** Benjamin, E., Warner, N., Gossage, D. Preliminary Report; The Incidence of Culture Positive Needle Tips Following Intravitreal Injections. *Poster presentation at the 95<sup>th</sup> Annual Clinical Assembly of the AOCOO-HNS, Tucson, Arizona. 2011.*

Ireland, K., **Lowrance, M.** Heidelberg Spectralis HRA + OCT Demonstrates Residual Damage from Quiescent Toxocara Canis. *Poster presentation at the 95<sup>th</sup> Annual Clinical Assembly of the AOCOO-HNS, Tucson, Arizona. 2011.*

**Lowrance, M.,** Benjamin, E., Chu, R., Gossage, D. Chemotherapy Induced Diffuse Lamellar Keratitis Nine Years Post LASIK. Research Paper. *Accepted to Clinical & Surgical Journal of Ophthalmology September 2011*

**Lowrance, M.,** The Science of Smoke. Article. Published on [www.smackers.com](http://www.smackers.com)

**Lowrance, M.,** Benjamin, E., Gossage, D. Chemotherapy Induced Diffuse Lamellar Keratitis Nine Years Post LASIK. *Poster presented at the 94<sup>th</sup> Annual Clinical Assembly of the AOCOO-HNS, Orlando, Florida. 2010.*

**Lowrance, M.,** Norris, L., Chu, R., Gossage, D. Lucentis for Occlusive Vascular Edema Intravitreal Treatment. *Poster presented at the 93<sup>rd</sup> Annual Clinical Assembly of the AOCOO-HNS, Austin, Texas. 2009.*

Chu, R., **Lowrance, M.,** Gossage, D. Initial Prechop Or Divide-and-conquer Study. (IPOD Study) Research Paper.

Habryl, M., **Lowrance, M.,** Benjamin, E., Chu, R., Gossage, D., Case Series of Anti-VEGF Use and Persistent IOP Rise. Research Paper

## **RESEARCH**

---

Clinical Application of Spectral Domain Optical Coherence Tomography  
Sub-Investigator

A Natural History Observation and Registry Study of Macular Telangiectasia Type 2. The Mactel Study.  
Sub-Investigator

A phase 2, multi-centre, randomized, double-masked, placebo-controlled, parallel-group study to investigate the safety, tolerability, efficacy, pharmacokinetics and pharmacodynamics of GSK933776 in adult patients with geographic atrophy (GA). Sub-Investigator.

A Phase I/II, Open-Label, Multi-Center, Prospective Study to Determine the Safety and Tolerability of Sub-retinal Transplantation of Human Embryonic Stem Cell Derived Retinal Pigmented Epithelial (MA09-hRPE) Cells in Patients with Advanced Dry AMD. Sub-Investigator.

Home Vision Monitoring in AREDS2 for Progression to Neovascular AMD using the ForeseeHome Device. Sub-Investigator.

The Diamond-Dusted Membrane Scraper ("Tano Brush") in Macular Surgery. Sub-Investigator

A Phase 2b/3 Multicenter, Randomized, Double-Masked, Dose-Ranging Study Comparing the Efficacy and Safety of Emixustat Hydrochloride (ACU-4429) with Placebo for the Treatment of Geographic Atrophy Associated with Dry Age-Related Macular Degeneration. Sub-Investigator.

Age-Related Eye Disease Study2 (AREDS 2): A Multi-center, Randomized Trial of Lutein, Zeaxanthin, and Long-Chain Omega-3 Fatty Acids (Docosahexaenoic Acid [DHA] and Eicosapentaenoic Acid [EPA]) in Age-Related Macular Degeneration. Sub-Investigator.

Outcomes of Exudative Ocular Diseases With and Without Anti-VEGF Therapy. Sub-Investigator.

## **PRESENTATIONS AND LECTURES**

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Macular Degeneration. An Update and Overview on "Healthline" hosted by Shelia Wittke. Community Television of Knoxville. September 11, 2013.

"Jetrea" A New Treatment for Vitreomacular Adhesion on "Healthline" hosted by Shelia Wittke. Community Television of Knoxville. August 14, 2013.

The Most Common Causes of Vision Loss. CME Presentation at the Virginia Osteopathic Association Annual Meeting. October 19 2013. Hotel Roanoke, Roanoke, VA.

Nevus or Not? Presentation and review of tumors of the retinal pigment epithelium given at the 95<sup>th</sup> Annual Clinical Assembly of the AOCOO-HNS, Tucson, Arizona. 2011.

"White spots in my eyes." Is it a pattern dystrophy? Case presentation given at the Great Lakes Retina Study Group. September, 2010. Detroit, Michigan

Proliferative Diabetic Retinopathy; More Than VEGF. Lecture and case presentation given at the American Osteopathic Colleges of Ophthalmology Otolaryngology-Head and Neck Surgery Mid Year Meeting. August, 2010. Detroit, Michigan.

Chemotherapy Induced Diffuse Lamellar Keratitis Nine Years Post LASIK. Presentation given at the 94<sup>th</sup> Annual Clinical Assembly of the American Osteopathic Colleges of Ophthalmology Otolaryngology-Head and Neck Surgery. May, 2010. Orlando, Florida.

The Perplexing Pregnancy; A rare presentation of BRAO. Case presentation given at the American Osteopathic Colleges of Ophthalmology Otolaryngology-Head and Neck Surgery Mid Year Meeting. September, 2009. Detroit, Michigan.

CME Presentation: Mass Psychogenic Illness. A synopsis presented to Southwestern Virginia Mental Health Institute physician staff. 1 hour credit CME provided through the University of Virginia Department of Medical Education. February, 2007. Marion, Virginia.

Ocular Manifestations of Cardiovascular Disease. Overview presented to the Carilion New River Valley Medical Center. January, 2007. Christiansburg, Virginia.

## **PROFESSIONAL ORGANIZATIONS**

---

American Academy of Ophthalmology (AAO)

Young Ophthalmologists Committee of the AAO (YO)  
American Osteopathic Colleges of Ophthalmology, Otolaryngology – Head and Neck Surgery  
Council of Residents and Fellows of the AOCCO-HNS (CRF)  
Michigan Society of Eye Physicians and Surgeons (MISEPS)  
American Osteopathic Association (AOA)  
Michigan Osteopathic Association (MOA)  
Virginia Osteopathic Medical Association (VOMA)  
Memphis Barbecue Network (MBN)

## **PATENTS AND INNOVATIONS**

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Designed and developed a safer, more efficient ophthalmic surgical drape; Patent Pending.  
Designed a device to monitor and prevent ocular injury in the operating room; Patent Pending.

## **PERSONAL INFORMATION**

---

I am a classically trained musician, husband and father of three, southern BBQ connoisseur, college football and basketball fanatic and enjoy songwriting, composition and designing medical products.

Birth date: May 9, 1977  
Birthplace: Huntsville, Alabama  
Citizenship: United States of America

## **Curriculum Vitae**

### **August 2013**

**Name:** Kenneth Lawrence Raulston, Jr., M.D.  
7800 Conner Rd.  
Powell, TN 37849  
PH: 865-546-7140

**Date of Birth:** June 28, 1938

**Education:** University of Tennessee-Knoxville, B.S., 1960  
University of Tennessee College of Medicine  
Memphis, Tennessee, December 1962  
Rotating Internship, University of Tennessee Memorial  
Hospital and Research Center, 1963-64  
U.S. Naval School of Aviation Medicine Jan-June 1964  
Active Duty US Navy Lt. Comdr.  
(M.C. Jan 1964-July 1967)  
Tulane University 1967  
Residency at Ochsner Clinic and Foundation  
New Orleans, LA July 1967-70

**Board Certification:** American Board of Ophthalmology, 1975

**Society Memberships:** Knoxville Academy of Medicine  
Tennessee Medical Association  
American Medical Association  
American Academy of Ophthalmology

**Current Status:** Private practice of general ophthalmology in association  
with Stephen R. Franklin, M.D. at Center For Sight, P.C.

**Hospital Privileges:** Tennova Medical Center North-active

**Curriculum Vitae**  
**Kenneth Lawrence Raulston Jr., M.D.**  
**Page Two**

**Seminars (CME):**

Georgia Society of Ophthalmology- April 30 to May 3, 1981-10 hours credit  
Knoxville Academy of Medicine-81/82-AMA cat-15 hours credit  
AZAR Foundation-November 1, 1981-Kerato-Refractive Society Meeting-10 hours  
Georgia Society of Ophthalmology- May 2-5, 1982-9 credit hours  
Medical University of South Carolina-Division of Continuing Education Conference  
Sports Medicine 1982-Oct. 11-13-12.0 credit  
Emory University School of Medicine-Current Advances in Ophthalmology Atlanta,  
Georgia-Dec. 10-11, 1982-10.5 credit.  
KAM Education Ski Meeting-1983 Feb. 5-12-Woodbridge Conference Center  
Snowmass, Colorado-sponsored by Knoxville Academy of Medicine-CME credits 15.0  
Tennessee Medical Association-1983-Nashville, Tennessee-April 13-16  
Kansas City Photocoagulation Workshop-5/28-29/1982-University of Missouri  
Comprehensive course Argon/Krypton lasers.  
Loss Prevention Seminar-Opryland Hotel-April 17, 1983-6 hours  
Georgia Society of Ophthalmology-May 5-8, 1983-Atlanta, Georgia-9 hours  
Hallum-Arnold Eye Foundation, Inc.-Metropolitan Hotel-June 11, 1983-Atlanta, GA-10  
hours YAG laser in ophthalmology  
Decatur Hospital by William Vollitine Prof.-August 5, 1983 Medical University of South  
Carolina-Charleston, South Carolina (YAG laser)  
Georgia Society of Ophthalmology-May 3-6, 1984-Atlanta, Georgia-9 hours  
SVMIC TMA Loss Prevention Seminar-Tennessee Medical Association-5 hours credit  
1984  
Accents Cosmetic Pigment Implantation-Dearborn, Michigan-Dec. 15, 1984  
American Academy of Ophthalmology-Atlanta, GA-Oct-Nov. 1984-35 hours  
Georgia Society of Ophthalmology-May 1985-9 hours  
American Academy of Ophthalmology-Sept 29-Oct 4, 1985-35 hours  
Tennessee Academy of Ophthalmology-April 10-11, 1986-7 credit hours  
Georgia Society of Ophthalmology-May 5-7, 1986  
Alabama Academy of Ophthalmology-Medical Legal Issues-Macula Lesion-San Destin  
Hilton, Destin, FL-August 20-22, 1986  
American Academy of Ophthalmology-1988-Oct. 8-12, 1988-46 credit hours  
American Academy of Ophthalmology-1989 35 credit hours (New Orleans)  
American Academy of Ophthalmology-1990 35 credit hours (Atlanta)

**Curriculum Vitae**  
**Kenneth Lawrence Raulston Jr., M.D.**  
**Page Three**

Visionary Program '90: Excimer Lasers in Ophthalmology-30 credit hours estimated  
Boston, Mass; Berlin, Germany; London, England; Calgary, Alberta, Canada; Kansas  
City, Mo; New Orleans, La  
Michigan Ophthalmological Society-8/10/89-8/13/89-Harper Woods, Michigan  
Ophthalmic Lasers: The state of the art and new techniques-8 credit hours  
Vanderbilt University Medical Center- 4/11/92 Nashville, TN 6.50 credit hours Retinal  
and Vitreal Disorders  
Tennessee Medical Association Loss prevention seminar- 7/16/92 Knoxville, TN 2 credit  
hours  
Clear Cornea and Topical Anesthesia -8/21/93 Atlanta, Ga (Chiron)  
TN Academy of Ophthalmology- 4/10/92 Nashville, TN (TMA) 6 credit hours  
TN Academy of Ophthalmology-4/93 Knoxville, TN (TMA) 6 credit hours  
Systemized Approach to Keratorefractive Surgery-7/17-18/93  
American Academy of Ophthalmology-10/95 Atlanta, Ga 35 credit hours  
TMA Loss Prevention Seminar-10/24/95 Knoxville, TN 2 credit hours  
Hawaii '96 Tufts University School of Medicine Ophthalmology Meeting-1/21-26/96  
25.2 CME credits  
Coherent Ultrapulse CO2 Laser Seminar-2/18/96 St. Mary's Medical Center Knoxville,  
TN  
Photorefractive Keratectomy Seminar New England Eye Center Tufts University School  
of Medicine Boston, Mass 2/16/96 8 credit hours  
Refractive Surgery Atlanta, Ga-10/28/95 6.0 CME credit  
American Academy of Ophthalmology-10/31/96 Chicago, IL 32 CME credits  
1997 General Risk Management Seminar-10/28/97 Gatlinburg, TN 2 CME credits  
Didactic and Practical Course in Endoscopic Cyclophotocoagulation using the E2  
Compact MicroProbe Laser Endoscopy System-7/1/01  
University of Tennessee-Grand Rounds Clinical Ophthalmology-1/1/02-12/31/02-7 CME  
credits  
Med Risk-"Risk Management Essentials for Physicians, Part I," Independent Study  
Course, 12/20/02-5 CME credits  
University of Tennessee-2002 Tumor Conference-Knoxville, TN 1 CME credit  
Audio Digest-"Anterior Segment Surgery" 5/16/02-2 CME credits  
Audio Digest-"Glaucoma" 5/8/02-2 CME credits  
CME Clinical Ophthalmology Conference 2003-Knoxville, TN-9 CME credits  
General Risk Management Seminar-7/9/03-Knoxville, TN-2 CME credits  
University of Tennessee-St. Mary's Tumor Board-Knoxville, TN-12/8/03-1 CME credits  
University of Tennessee-St. Mary's Tumor Board-Knoxville, TN-1/1/04-2 CME credits  
General Risk Management Seminar-7/20/04 Knoxville, TN 2 CME credits  
University of Tennessee St. Mary's Tumor Boards 1/1/05 2 AMA credits  
Eye on the Bayou: New Concepts in Glaucoma, Cataracts, and Neuro-ophthalmology-  
New Orleans-Feb.18-20, 2005 17.25 AMA credits

**Curriculum Vitae**  
**Kenneth Lawrence Raulston Jr., M.D.**  
**Page Four**

General Risk Management Seminar Knoxville, TN 7/20/05 2 CME credits  
Continuing Professional Education-Chicago, IL-10/14/2005 1 credit AMA  
Apodized Diffractive Lens Symposium-Chicago, IL-10/14/2005  
American Academy of Ophthalmology-Chicago, IL-10/14-18/05 29 CME credits  
Neuro-Ophthalmology 10/14-18 2005-Chicago, IL 6 CME credits  
General Risk Management Seminar Knoxville, TN 8/1/06 2 AMA credits  
American Academy of Ophthalmology-November 10-14 2006 Las Vegas, NV 8 CME credits  
Communication Issues in Malpractice Litigation-8/29/07 2 AMA credits  
General Risk Management Seminar Knoxville, TN 7/30/2008 2 AMA Credits  
Reducing malpractice risk Knoxville TN 08/11/2009 2 AMA PRA credits  
Managing Difficult patients Knoxville TN 07/21/2010 2 AMA PRA credits  
Prescribing Practices: understanding the law and reducing risk Knoxville TN 08/25/2010 2 AMA PRA credits  
2011 Dealing with Difficult Colleagues Knoxville Tn 07/20/2011 2 AMA PRA Credits  
Case Debates in the Management of AMD and DME Chicago Il 11/11/2012 1.5 AMA PRA Credits  
Expert Consultations in Disease of the Aging Eye Chicago, IL 11/10/2012 1.5 AM PRA credits  
Preparing the Physician for Deposition & Trial seminar 1645 Knoxville, TN 7/17/2013 2 AMA PRA category I credits



**Curriculum Vitae**  
**Kenneth Lawrence Raulston Jr., M.D.**  
**Page Five**

Course in Phaco Emulsification: St. Johns Hospital & Lion Eye Bank  
Santa Monica, California-1975  
3 full days-24 hours

Course in Lens Implantations: Santa Monica Hospital Medical Center  
Charlie Ruggles Ophthalmology Dept.  
Santa Monica, California-1978

(3 full days-24 hours-all types of lenses covered anterior chamber, iris fixated,  
iridocapsular and posterior chamber)

Azar Foundation IOL Course-May 1979  
New Orleans, Louisiana-all types lenses covered, in addition elective course in posterior  
chamber lenses-3 hours

Metropolitan Eye and Ear Hospital Course  
Planned extracapsular cataract extraction and posterior chamber intraocular lens  
implantation, only shearing-March 1979-Atlanta, Georgia-16 hours, posterior chamber  
lens covered

Course in IOL and Radial Keratotomy Seminar: January 16-21, 1981-University of Utah,  
College of Medicine-Salt Lake City, Utah-19 credit hours

Small Incision Implant Course-Atlanta, Georgia-Waverly Hotel-Oct. 24-25, 1986-Eye  
Foundation of American

Certificate of credit, The New York Eye and Ear Infirmary Chicago IL, 11/11/2012

**STEPHEN H. RUDOLPH, CPA**  
***CHIEF MANAGER & CONSULTANT***  
**EYECARE RESOURCES, LLC**

- OVER THIRTY YEARS EXPERIENCE IN MANAGING OPHTHALMIC & OPTOMETRIC MEDICAL PRACTICES INCLUDING FINANCIAL OPERATIONS, CLINICAL OPERATIONS, REAL ESTATE, MEDICAL FACILITIES, ACQUISITION/DEVELOPMENT, NETWORKING & STRATEGIC PLANNING
- SERVED AS CEO & ADMINISTRATOR OF VITREORETINAL FOUNDATION-MEMPHIS, TN (CATASTROPHIC EYE CARE PRACTICE WITH THIRTY-SIX OUTREACH LOCATIONS) & DEVELOPED ONE OF THE FIRST FREE-STANDING ASC FACILITIES TO PERFORM VITREORETINAL SURGERY (1985-1994)
- SERVED AS CEO OF REGIONAL PRACTICE MANAGEMENT COMPANY-EYECORP, INC, A PROVIDER-OWNED NETWORK OF PRACTICES WHICH ESTABLISHED A VERTICALLY INTEGRATED EYE CARE DELIVERY SYSTEM IN THE SOUTHEAST (1994-1996). EYECORP MERGED WITH PRG IN 1996 & OPERATED THROUGH 2000.
- ASC TURN-KEY DEVELOPMENT EXPERIENCE HAS BEEN FOCUSED ON SINGLE SPECIALTY OPHTHALMIC FACILITIES IN TN, MS, AL, IN, GA (1988-PRESENT)



## State of Tennessee

### Health Services and Development Agency

Andrew Jackson, 9<sup>th</sup> Floor, 502 Deaderick Street, Nashville, TN 37243

[www.tn.gov/hsda](http://www.tn.gov/hsda)

Phone: 615-741-2364

Fax: 615-741-9884

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December 1, 2016

Stephen Rudolph  
Eyecare Resources  
PO BOX 381342  
Germantown, TN 38183

RE: Certificate of Need Application -- Eye Surgery Center of Knoxville, LLC - CN1610-038  
The establishment of a single specialty ophthalmic ambulatory surgical treatment center at an unaddressed site on the south side of Dannaher Drive, Powell (Knox County), TN 37849. The proposed ambulatory surgical treatment center (ASTC) will have two operating rooms and one laser procedure room. The estimated project cost is \$1,850,000.

Dear Mr. Rudolph:

This is to acknowledge the receipt of supplemental information to your application for a Certificate of Need. Please be advised that your application is now considered to be complete by this office.

Your application is being forwarded to Trent Sansing at the Tennessee Department of Health for Certificate of Need review by the Division of Policy, Planning and Assessment. You may be contacted by Mr. Sansing or someone from his office for additional clarification while the application is under review by the Department. Mr. Sansing's contact information is [Trent.Sansing@tn.gov](mailto:Trent.Sansing@tn.gov) or 615-253-4702.

In accordance with Tennessee Code Annotated, §68-11-1607, et seq., as amended by Public Chapter 780, the 60-day review cycle for this project will begin on December 1, 2016. The first 60 days of the cycle are assigned to the Department of Health, during which time a public hearing may be held on your application. You will be contacted by a representative from this Agency to establish the date, time and place of the hearing should one be requested. At the end of the 60-day period, a written report from the Department of Health or its representative will be forwarded to this office for Agency review. You will receive a copy of their findings. The Health Services and Development Agency will review your application on February 22, 2017.

Mr. Rudolph  
December 1, 2016  
Page 2

Any communication regarding projects under consideration by the Health Services and Development Agency shall be in accordance with T.C.A. § 68-11-1607(d):

- (3) No communications are permitted with the members of the agency once the Letter of Intent initiating the application process is filed with the agency. Communications between agency members and agency staff shall not be prohibited. Any communication received by an agency member from a person unrelated to the applicant or party opposing the application shall be reported to the Executive Director and a written summary of such communication shall be made part of the certificate of need file.
- (4) All communications between the contact person or legal counsel for the applicant and the Executive Director or agency staff after an application is deemed complete and placed in the review cycle are prohibited unless submitted in writing or confirmed in writing and made part of the certificate of need application file. Communications for the purposes of clarification of facts and issues that may arise after an application has been deemed complete and initiated by the Executive Director or agency staff are not prohibited.

Should you have questions or require additional information, please contact me.

Sincerely,



Melanie M. Hill  
Executive Director

cc: Trent Sansing, TDH/Health Statistics, PPA



## State of Tennessee

### Health Services and Development Agency

Andrew Jackson, 9<sup>th</sup> Floor, 502 Deaderick Street, Nashville, TN 37243

[www.tn.gov/hsda](http://www.tn.gov/hsda)


Phone: 615-741-2364

Fax: 615-741-9884

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#### MEMORANDUM

TO: Trent Sansing, CON Director  
Office of Policy, Planning and Assessment  
Division of Health Statistics  
Andrew Johnson Tower, 2nd Floor  
710 James Robertson Parkway  
Nashville, Tennessee 37243

FROM: Melanie M. Hill   
Executive Director

DATE: December 1, 2016

RE: Certificate of Need Application  
Eye Surgery Center of Knoxville, LLC - CN1610-038

Please find enclosed an application for a Certificate of Need for the above-referenced project.

This application has undergone initial review by this office and has been deemed complete. It is being forwarded to your agency for a sixty (60) day review period to begin on December 1, 2016 and end on February 1, 2017.

Should there be any questions regarding this application or the review cycle, please contact this office.

Enclosure

cc: Stephen Rudolph





**State of Tennessee  
Health Services and Development Agency**

Andrew Jackson Building, 9<sup>th</sup> Floor  
502 Deaderick Street  
Nashville, TN 37243

[www.tn.gov/hsda](http://www.tn.gov/hsda)

Phone: 615-741-2364

Fax: 615-741-9884

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**LETTER OF INTENT**

The Publication of Intent is to be published in the **Knoxville News-Sentinel** which is a newspaper

(Name of Newspaper)

of general circulation in

**Knox County, Tennessee, on or before**

**November 1st, 2016,**

(County)

(Month / day) (Year)

for one day.

-----  
This is to provide official notice to the Health Services and Development Agency and all interested parties, in accordance with T.C.A. § 68-11-1601 *et seq.*, and the Rules of the Health Services and Development Agency, that:

**Eye Surgery Center of Knoxville,**

(Name of Applicant)

**a proposed ambulatory surgical treatment center to be**

(Facility Type-Existing)

owned and managed by Eye Surgery Center of Knoxville, LLC (a Limited Liability Company) intends to file an application for a Certificate of Need for the establishment of a single specialty ophthalmic ambulatory surgery center at a site on the south side of Dannaher Drive (without an address currently) in Powell, Knox County, TN approximately 0.2 miles east of the owner's office at 7800 Conner Road, Powell, TN 37849. The estimated cost for the project is approximately \$1,850,000 and the facility will seek licensure as an ambulatory surgical treatment center limited to ophthalmology, providing eye and related laser procedures. The facility will have two (2) operating rooms and one (1) laser procedure room. The project does not contain major medical equipment, initiate or discontinue any other health service, and will not affect any licensed bed complements.

The anticipated date of filing the application is **November 2, 2016.**

The contact person for this project is **Stephen H. Rudolph, CPA** who may be reached at **Eyecare Resources, LLC, P.O. Box 381342, Germantown, TN 38183-1342; 901-219-0173.**

  
(Signature)

  
(Date)

**shrudolphsr@yahoo.com**

(E-mail Address)

-----  
The Letter of Intent must be **filed in triplicate** and **received between the first and the tenth day** of the month. If the last day for filing is a Saturday, Sunday or State Holiday, filing must occur on the preceding business day. File this form at the following address:

**Health Services and Development Agency  
Andrew Jackson Building, 9<sup>th</sup> Floor  
502 Deaderick Street  
Nashville, Tennessee 37243**

-----  
The published Letter of Intent must contain the following statement pursuant to T.C.A. § 68-11-1607(c)(1). (A) Any health care institution wishing to oppose a Certificate of Need application must file a written notice with the Health Services and Development Agency no later than fifteen (15) days before the regularly scheduled Health Services and Development Agency meeting at which the application is originally scheduled; and (B) Any other person wishing to oppose the application must file written objection with the Health Services and Development Agency at or prior to the consideration of the application by the Agency.

# Supplemental #1 -COPY-

Eye Surgery Center of  
Knoxville

CN1611-038



**November 10, 2016**

**3:07 pm**

November 9, 2016

Phillip Earhart-HSD Examiner

State of Tennessee

Health Services and Development Agency

Andrew Jackson Building, 9<sup>th</sup> Floor

www.tn.gov/hsda Phone: 615-741-2364/Fax: 615-741-9884

**RE: Certificate of Need Application CN1611-038**

**Eye Surgery Center of Knoxville**

**Supplemental Information & Affidavit**

Dear Mr. Earhart:

Pursuant to your letter of November 4, 2016, please find our response to the list of questions and request for supplemental information (with Affidavit) with regard to the CON application referenced above. Should you have any questions or require additional information please do not hesitate to contact me.

Kindest regards,



Stephen H. Rudolph, CPA-Consultant for

Eye Surgery Center of Knoxville

PH# 901-219-0173

Email: shrudolphsr@yahoo.com

**November 10, 2016**

**3:07 pm**



**State of Tennessee**  
**Health Services and Development Agency**  
Andrew Jackson Building, 9<sup>th</sup> Floor  
[www.tn.gov/hsda](http://www.tn.gov/hsda) Phone: 615-741-2364/Fax: 615-741-9884

November 9, 2016

Stephen H. Rudolph, CPA  
Eyecare Resources, LLC  
P.O. Box 381342  
Germantown, TN 38183-1342

RE: Certificate of Need Application CN1611-038  
Eye Surgery Center of Knoxville

Dear Mr. Rudolph:

This will acknowledge our October 1, 2016 receipt of your application for a Certificate of Need for the establishment of a single specialty ophthalmic ambulatory surgical treatment center at an unaddressed site on the south side of Dannaher Drive, Powell (Knox County), TN 37849. The proposed ambulatory surgical treatment center will have two operating rooms and one laser procedure room.

Several items were found which need clarification or additional discussion. Please review the list of questions below and address them as indicated. The questions have been keyed to the application form for your convenience. I should emphasize that an application cannot be deemed complete and the review cycle begun until all questions have been answered and furnished to this office.

**Please submit responses in triplicate by 4PM, November 11, 2016.** If the supplemental information requested in this letter is not submitted by or before this time, then consideration of this application may be delayed into a later review cycle.

---

**1. Section A, Applicant Profile, Item 1**

The street address of Danaher Drive is noted. However, please revise the street address to reflect "unaddressed site on Dannaher Drive" and submit a replacement page:

**RESPONSE:** *Please find replacement page 1R with street address noted above.*

**2. Section A, Applicant Profile, Item 6.A.**

The signed option to purchase agreement signed by the seller on September 2, 2016 is noted. However, on page 10 of the agreement, the seller did not check the provided boxes that indicate if the agreement was accepted, countered, or rejected. Please clarify.

**RESPONSE:** *Please find copy of page 10 of the signed option to purchase agreement noting seller's acceptance as indicated by the marked box "accepted" by David Fiser-Seller.*

**3. Section C, Need Item 1(Specific Criteria -ASTC) Question #8 Access to ASTCs**  
Please provide a response to this criterion. Responding to the criterion by referring to other parts of the application is not acceptable.

**RESPONSE:** *Please find response to this criterion on replacement page 24R.*

**4. Section C, Need Item 4.a**

The demographic table on page 30 is noted. However, the TennCare enrollee as a % of total applies to each county and service area. For example, the TennCare enrollee as a % of total for Anderson County is 22.2% (17,289 enrollees/77,667 total population). Please revise and submit a replacement page 30.

**RESPONSE:** *Please find revised demographic table on replacement page 30R.*

**5. Section C, Need Item 5**

The table on page 32 is noted. Please specify the OR and PR standard used for the last two columns of the table for the year 2015.

**RESPONSE:** *Please find revised table noting OR standard-884 Cases and PR standard-1867 Cases for the year 2015. The percentages of utilization standard have been revised on the table to reflect this information on replacement page 32R and in the response on replacement page 31R as well as the response on page 19R in Section B-3.Need: Economic Efficiencies-Access.*

Which hospitals in the service area provide ophthalmic surgery?

**RESPONSE:** *Tennova Healthcare-Physicians Regional Medical Center(PRMC) Hospital -Knoxville, TN (Knox County), Tennova Healthcare-LaFollette Medical Center-LaFollette, TN (Campbell County), Tennova Healthcare-Jefferson Memorial Hospital, Jefferson City, TN (Jefferson County), LeConte Medical Center Hospital, Sevierville, TN*

*(Sevier County) provide ophthalmic surgery within the service area (no laser procedures). Tennova Healthcare-North Knoxville Medical Center Hospital, Powell, TN (Knox County) provides laser procedures only.*

-What are the reasons for the reduction of 13 ophthalmic ORs in the service area?

**RESPONSE:** *Advanced Family Surgery Center-Multi-specialty ASTC (Anderson County) was performing ophthalmic cases per JAR reports in 2012 and ceased performing ophthalmic cases in 2013 (4 ORs). Maryville Surgery Center-Multi-specialty ASTC (Blount County) was performing ophthalmic cases per JAR reports in 2013 and the Facility was closed in 2014 (4 ORs). St Mary's Ambulatory Surgery Center-Multi-specialty ASTC (Knox County) was performing ophthalmic cases in 2013 per JAR reports and was closed on 1/31/2013 (6 ORs) and Tennova Healthcare now operates this facility as a hospital department of their Knoxville Medical Center location. In 2014, Southeast Eye Surgery Center- Single Specialty Ophthalmic ASTC began performing ophthalmic cases in their 1 OR facility. Overall, this has resulted in a net reduction of 13 ophthalmic ORs in ASTCs within the service area.*

Please complete the following table. **RESPONSE:** *Please find completed table below.*

ASTC	County	Oper. Rms/ Proc. Rms	2013 Cases PR+OR	2014 Cases PR+OR	2015 Cases PR+OR	13'-15' % Change
<b>Single Specialty</b>						
Eye Surgery Center of East Tennessee	Knox	2/1=3				
Ophthalmology			3,710	4,572	3,792	2.21%
<b>Total Outpatient Surgeries</b>			<b>3,710</b>	<b>4,572</b>	<b>3,792</b>	<b>2.21%</b>
% Ophthalmologic Procedures			100.00%	100.00%	100.00%	
Knoxville Eye Surgery Center	Knox	4/1=5				
Ophthalmology			10,187	9,628	14,203	39.42%
<b>Total Outpatient Surgeries</b>			<b>10,187</b>	<b>9,628</b>	<b>14,203</b>	<b>39.42%</b>
% Ophthalmologic Procedures			100.00%	100.00%	100.00%	
Southeast Eye Surgery Center, LLC	Knox	1/1=2				
Ophthalmology			N/A	687	2,034	N/A
<b>Total Outpatient Surgeries</b>			<b>N/A</b>	<b>687</b>	<b>2,034</b>	<b>N/A</b>
% Ophthalmologic Procedures			N/A	100.00%	100.00%	
<b>Single Specialty Subtotal</b>		<b>7/3= 10</b>	<b>13,897</b>	<b>14,887</b>	<b>20,029</b>	<b>44.12%</b>
<b>Multi-Specialty</b>						
The Eye Surgery Center of Oak Ridge	Anderson	2/1=3				
Ophthalmology			3,090	3,112	3,328	7.70%
<b>Total Outpatient Surgeries</b>			<b>3,251</b>	<b>3,302</b>	<b>3,518</b>	<b>8.21%</b>
% Ophthalmologic Procedures			95.05%	94.25%	94.60%	
Physicians Surgery Center of Knoxville	Knox	5/0=5				
Ophthalmology			581	912	497	-14.46%
<b>Total Outpatient Surgeries</b>			<b>4,670</b>	<b>5,102</b>	<b>4,472</b>	<b>-4.24%</b>
% Ophthalmologic Procedures			<b>12.44%</b>	<b>17.88%</b>	<b>11.11%</b>	
<b>Multi-Specialty Subtotal</b>		<b>7/1 = 8</b>	<b>7,921</b>	<b>8,404</b>	<b>7,990</b>	<b>0.87%</b>
<b>Total Service Area</b>		<b>14/ 4 = 18</b>	<b>21,818</b>	<b>23,291</b>	<b>28,019</b>	<b>28.42%</b>

Please complete the following table for ASTC's in the proposed 8 county service area that currently provides Ophthalmologic procedures. **RESPONSE:** Please find completed table below.

ASTC	County	Operating Rooms 2015			Procedure Rooms 2015		
		# ORs	Cases	% of 884 Standard	# PRs	Cases	% of 1,867 Standard
Single Specialty							
Eye Surgery Center of East Tennessee	Knox	2	2,930	165.72%	1	862	46.17%
Knoxville Eye Surgery Center	Knox	4	13,307	376.33%	1	896	47.99%
Southeast Eye Surgery Center, LLC	Knox	1	1,843	208.48%	1	191	10.23%
Subtotal (Single-Specialty)		7	18,080	292.18%	3	1,949	34.80%
Multi-Specialty							
The Eye Surgery Center of Oak Ridge	Anderson	2	2,495	141.12%	1	1,023	54.79%
Physicians Surgery Center of Knoxville	Knox	5	4,472	101.18%	N/A		
Subtotal (Multi-Specialty)		7	6,967	112.59%	1	1,023	54.79%
Grand Total Surgeries		14	25,047	202.38%	4	2,972	39.80%
Cases per OR/PR		1,789				743	

Please complete the following table that indicates the overall ASTC utilization trend for the 8 county proposed service area. **RESPONSE:** Please find completed table below.

**8 County Service Area Patient Utilization  
2013-2015**

County	ASTC	2013			2014			2015			% change 13'-15'
		Oper. Rms/	Proc. Rms	Total Cases	Oper. Rms/	Proc. Rms	Total Cases	Oper. Rms/	Proc. Rms	Total Cases	
Anderson	Single-Specialty	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Anderson	Multi-specialty	2	1	3,251	2	1	3,302	2	1	3,518	8.21%
	<b>Total</b>	<b>2</b>	<b>1</b>	<b>3,251</b>	<b>2</b>	<b>1</b>	<b>3,302</b>	<b>2</b>	<b>1</b>	<b>3,518</b>	<b>8.21%</b>
Blount	Single-Specialty	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Blount	Multi-specialty	4	0	3,342	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	<b>Total</b>	<b>4</b>	<b>0</b>	<b>3,342</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
Knox	Single-Specialty	6	2	13,897	7	3	14,887	7	3	20,029	44.12%
Knox	Multi-specialty	11	0	4,670	5	0	5,102	5	0	4,472	-4.24%
	<b>Total</b>	<b>17</b>	<b>2</b>	<b>18,567</b>	<b>12</b>	<b>3</b>	<b>19,989</b>	<b>12</b>	<b>3</b>	<b>24,501</b>	<b>31.96%</b>
Service Area	Single-Specialty	6	2	13,897	7	3	14,887	7	3	20,029	44.12%
	Multi-specialty	17	1	11,263	7	1	8,404	7	1	7,990	-29.06%
	<b>Grand Total</b>	<b>23</b>	<b>3</b>	<b>25,160</b>	<b>14</b>	<b>4</b>	<b>23,291</b>	<b>1</b>	<b>4</b>	<b>28,019</b>	<b>11.36%</b>



**6. Section C, Economic Feasibility, Item 3**

What does the Historical Data Chart represent?

**RESPONSE:** *This represents the combined utilization data (patient encounters) and combined revenue and expense of the four ophthalmic medical practices ("ESCK group") associated with the project for the years 2013, 2014, & 2015. This information has also been referenced on replacement page 38R.*

**7. Section C, Economic Feasibility, Item 8**

The staffing analysis and plan table on page 49 is noted. However, please specify the numerical full time equivalent for each position.

**RESPONSE:** *Please find revised staffing analysis and plan table with numerical full time equivalent for each position on replacement page 49R.*

**8. Section C. Contribution to Orderly Development Item 5A.**

There appears to be an unreported board order and civil penalty for Thomas Browning, MD. Please provide documentation and specifics.

**RESPONSE:** *Please find Practitioner Profile Data, Licensure Verification & Agreed Citation from State of Tennessee Department of Health-Bureau of Health Licensure and Regulation for Thomas Browning, MD related to insufficient continuing education credits maintained in 2008. The terms of the Agreed Citation regarding insufficient continuing education credits and additional required continuing education credits were subsequently met along with payment of the assessed civil penalty of \$480. This information has been noted on the replacement page 53R in Section C. Contribution to the Orderly Development Item 5A.*

In accordance with Tennessee Code Annotated, §68-11-1607(c) (5), "...If an application is not deemed complete within sixty (60) days after written notification is given to the applicant by the agency staff that the application is deemed incomplete, the application shall be deemed void." **For this application the sixtieth (60<sup>th</sup>) day after written notification is January 3, 2017. If this application is not deemed complete by this date, the application will be deemed void.** Agency Rule 0720-10-.03(4) (d) (2) indicates that "Failure of the applicant to meet this deadline will result in the application being considered withdrawn and returned to the contact person. Re-submittal of the application must be accomplished in accordance with Rule 0720-10-.03 and requires an additional filing fee." Please note that supplemental information must be submitted timely for the application to be deemed complete prior to the beginning date of the review cycle which the applicant intends to enter, even if that time is less than the sixty (60) days allowed by the statute. The supplemental information must be submitted with the enclosed affidavit, which shall be executed and notarized; please attach the notarized affidavit to the supplemental information.

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If all supplemental information is not received and the application officially deemed complete prior to the beginning of the next review cycle, then consideration of the application could be delayed into a later review cycle. The review cycle for each application shall begin on the first day of the month after the application has been deemed complete by the staff of the Health Services and Development Agency.

Any communication regarding projects under consideration by the Health Services and Development Agency shall be in accordance with T.C.A. § 68-11-1607(d):

- (1) No communications are permitted with the members of the agency once the Letter of Intent initiating the application process is filed with the agency. Communications between agency members and agency staff shall not be prohibited. Any communication received by an agency member from a person unrelated to the applicant or party opposing the application shall be reported to the Executive Director and a written summary of such communication shall be made part of the certificate of need file.
- (2) All communications between the contact person or legal counsel for the applicant and the Executive Director or agency staff after an application is deemed complete and placed in the review cycle are prohibited unless submitted in writing or confirmed in writing and made part of the certificate of need application file. Communications for the purposes of clarification of facts and issues that may arise after an application has been deemed complete and initiated by the Executive Director or agency staff are not prohibited.

Should you have any questions or require additional information, please do not hesitate to contact this office.

Sincerely,

Phillip Earhart  
HSD Examiner





State of Tennessee

Health Services and Development Agency 3:07 pm

Andrew Jackson Building, 9th Floor, 502 Deaderick Street, Nashville, TN 37243

www.tn.gov/hsda Phone: 615-741-2364 Fax: 615-741-9884

**SUPPLEMENTAL #1**

**November 10, 2016**

## **CERTIFICATE OF NEED APPLICATION**

### **SECTION A: APPLICANT PROFILE**

#### **1. Name of Facility, Agency, or Institution**

Eye Surgery Center of Knoxville

Name

Unaddressed site on Dannaher Drive

Street or Route

Knox

County

Powell

City

TN

State

37846

Zip Code

Website address: N/A

Note: The facility's name and address **must be** the name and address of the project and **must be** consistent with the Publication of Intent.

#### **2. Contact Person Available for Responses to Questions**

Stephen H. Rudolph

Name

CPA

Title

Eyecare Resources, LLC

Company Name

shrudolphsr@yahoo.com

Email address

P.O. BOX 381342

Street or Route

Germantown

City

TN

State

38183-1342

Zip Code

Consultant

Association with Owner

901-219-0173

Phone Number

N/A

Fax Number

**NOTE:** **Section A** is intended to give the applicant an opportunity to describe the project. **Section B** addresses how the project relates to the criteria for a Certificate of Need by addressing: Need, Economic Feasibility, Contribution to the Orderly Development of Health Care, and Quality Measures.

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Seller hereby:

- ☒ **ACCEPTS** – accepts this offer.  
☐ **COUNTERS** – accepts this offer subject to the attached Counter Offer(s).  
☐ **REJECTS** this offer and makes no counter offer.

**SELLER**By: David FiserTitle: memberEntity: Know Fi Two, LLC9/2/16 at 2:20 o'clock ☐ am / ☒ pm

DATE: \_\_\_\_\_

**SELLER**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Entity: \_\_\_\_\_

\_\_\_\_\_ at \_\_\_\_\_ o'clock ☐ am / ☐ pm

DATE: \_\_\_\_\_

**Binding Agreement Date.** This instrument shall become a "Binding Agreement" on the date ("Binding Agreement Date") the last offeror, or licensee of offeror, receives notice of offeree's acceptance. Notice of acceptance of the final Offer was provided on 2<sup>nd</sup> day of September 2016 at 2:20 pm o'clock by David Fiser (Name).

**For Information Purposes Only:**

Listing Company \_\_\_\_\_

Listing Company \_\_\_\_\_

Independent Licensee \_\_\_\_\_

Independent Licensee \_\_\_\_\_

Licensee Email \_\_\_\_\_

Licensee Email \_\_\_\_\_

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applications should provide similar information on the availability of nearby out-of-state existing outpatient Operating Rooms and Procedure Rooms, if that data are available, and provide the source of that data. Unstaffed dedicated outpatient Operating Rooms and unstaffed dedicated outpatient Procedure Rooms are considered available for ambulatory surgery and are to be included in the inventory and in the measure of capacity.

**RESPONSE:** *There are five existing ASTCs within the Applicant's eight county Service Area which currently provide eye services. There are no ASTCs currently licensed in five of the counties within the Service Area-Campbell, Grainger, Jefferson, Sevier and Union and no ASTC currently licensed in Blount County, TN (also within Service Area) that provides eye services. Three of these existing facilities licensed as single specialty ophthalmic ASTCs are located in Knox County, TN, and experience high utilization. The other ASTC located in Knox County, TN is licensed as multi-specialty and provides eye services but has no procedure room or equipment for eye laser procedures. The ASTC located in Anderson County is licensed as multi-specialty but performs predominantly eye surgeries and eye laser procedures and has experienced good utilization but its location is inadequate for servicing the needs of the Applicant's patients. Unstaffed dedicated outpatient Operating Rooms and Procedure Rooms were included in the inventory and measure of capacity. Over the three-year reporting period from 2013 to 2015 (per Joint Annual Reports-TN Dept. of Health-Div. of Planning and Assessment (PPA)-Health Facilities Statistics Unit), the available ASTC operating rooms/procedure rooms capacity providing eye services within the Service Area decreased from 31 to 18. For the existing active ASTCs providing eye services within the Service Area the aggregate totals for 2015 were: OR (Operating Room) Utilization as a % of HSDA State Guidelines-202.38%- ave.1789 cases/OR & PR (Procedure Room)- 39.80%-ave.743 cases/PR. See Schedule of Historical Capacity & Utilization of ASTCs with Eye Service in 8 County Service Area included in this Section B. Need-Question 5.*

4. **Need and Economic Efficiencies.** An applicant must document the potential impact that the proposed new ASTC would have upon the existing service providers and their referral patterns.
  1. A CON application to establish an ASTC or to expand existing services of an ASTC should not be approved unless the existing ambulatory surgical services that provide comparable services regarding the types of Cases performed, if those services are known and relevant, within the applicant's proposed Service Area or within the applicant's facility are demonstrated to be currently utilized at 70% or above.
  2. The Division recognizes that estimated or average cleanup/preparation times and Case times may vary significantly by specialty and type of Case.
  3. The Department of Health is currently in the rule-making process necessary to implement the statute requiring the collection of office-based surgery data (Public Chapter 373, 2007). The Division recognizes that the Department of Health does not have sufficient data available on hospital ambulatory/outpatient surgery rooms at this time to include them in the determination of need; however, the Division plans to work

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All assumptions, including the specific methodology by which utilization is projected, must be clearly stated.

**RESPONSE:** See Schedule of Eight County Service Area Utilization in Section B-Need-3 which reflects the eye procedures performed for year end 2015 by the six specialists of the ESKK group by patient origin-86.35% within Service Area and Applicant anticipates and projects similar patient origin trends for the next several years-86.35%, in Service Area The 65+ age group is expected to increase by 15.8% from 2016 to 2020 which will require more treatment and cataract surgery for age related vision loss within the Service Area and this trend is expected to continue-See Demographic Table for Eye Surgery Center of Knoxville Service Area. Anticipated services for out-of-state patients will be limited in number and insignificant. There are five existing ASTCs within the Applicant's Service Area that currently provide eye services- See Schedule of Historical Capacity & Utilization of ASTCs with Eye Service in 8 County Service Area in Section B-Need-5.

9. **Access and Economic Efficiencies.** An application to establish an ambulatory surgical treatment center or to expand existing services of an ambulatory surgical treatment center must project patient utilization for each of the first eight quarters following completion of the project. All assumptions, including the specific methodology by which utilization is projected, must be clearly stated.

**RESPONSE:** See Table below. Projected patient utilization is based on actual procedures performed by ESKK group for 2015 with increase of 10% cumulative growth (from 2015 to 2018) in Year 1-2018 and 10% annual growth in Year 2-2019. This is conservative based on aging population trends of the Service Area in excess of 15.8% in the 65+ age group and population growth from 2016 to 2020.

# PROCEDURES PROJECTED:	QTR 1	QTR 2	QTR 3	QTR 4	TOTAL	QTR 1	QTR 2	QTR 3	QTR 4	TOTAL
	YEAR 1	YEAR 1	YEAR 1	YEAR 1		YEAR 2	YEAR 2	YEAR 2	YEAR 2	
Cataract Surgery	789	789	789	789	3156	868	868	868	869	3473
Glaucoma Surgery	3	3	3	3	12	3	3	3	4	13
Other Eye Care Sx Procedures	8	8	8	8	32	9	9	9	10	37
Yag Laser Procedures	192	191	192	192	767	211	211	211	210	843
Retina Laser Procedures	7	7	7	7	28	7	7	7	8	29
SLT Laser Procedures	4	5	5	5	19	6	5	5	5	21
<b>Total</b>	<b>1,003</b>	<b>1,003</b>	<b>1,004</b>	<b>1,004</b>	<b>4014</b>	<b>1,104</b>	<b>1,103</b>	<b>1,103</b>	<b>1,106</b>	<b>4416</b>

10. **Patient Safety and Quality of Care; Health Care Workforce.**

- An applicant should be or agree to become accredited by any accrediting organization approved by the Centers for Medicare and Medicaid Services, such as the Joint Commission, the Accreditation Association of Ambulatory Health Care, the American Association for Accreditation of Ambulatory Surgical Facilities, or other nationally recognized accrediting organization.
- An applicant should estimate the number of physicians by specialty that are expected to utilize the facility and the criteria to be used by the facility in extending surgical and anesthesia privileges to medical personnel. An applicant should provide documentation on the availability of appropriate and qualified staff that will provide ancillary support services, whether on- or off-site.

**Demographic Table for Eye Surgery Center of Knoxville Service Area**

**November 10, 2016**

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Demographic Variable/ Geographic Area	Department of Health /Health Statistics*								Bureau of the Census**				TennCare***	
	Population Estimate 2016			Population Estimate 2020			% Increase		Median Age	Median Household Income	# Person Below Poverty Level	#Person Below Pov Level as % of Total	TennCare Enrollees	TennCare Enrollees as % of Total
	Total	65+	%65+	Total	65+	%65+	65+	Total						
Anderson	77,667	15,608	20.1%	79,061	17,490	22.1%	12.1%	1.8%	43.7	44,199	13,281	17.1%	17,289	22.3%
Blount	133,236	26,259	19.7%	139,725	30,754	22.0%	17.1%	4.9%	42.7	46,518	19,186	14.4%	23,893	17.9%
Campbell	41,464	8,645	20.8%	41,787	9,698	23.2%	12.2%	0.8%	42.5	32,316	9,371	22.6%	13,847	33.4%
Grainger	23,890	4,951	20.7%	24,577	5,763	23.4%	16.4%	2.9%	43.0	34,566	5,065	21.2%	6,382	26.7%
Jefferson	55,714	11,400	20.5%	58,372	13,331	22.8%	16.9%	4.8%	41.8	41,426	9,249	16.6%	13,252	23.8%
Knox	466,345	70,360	15.1%	488,993	80,979	16.6%	15.1%	4.9%	37.2	47,543	71,351	15.3%	81,859	17.6%
Sevier	101,144	19,374	19.2%	108,468	23,251	21.4%	20.0%	7.2%	42.8	42,499	15,576	15.4%	21,864	21.6%
Union	19,903	3,562	17.9%	20,320	4,173	20.5%	17.2%	2.1%	40.7	36,009	4,518	22.7%	5,495	27.6%
Service Area Total	919,363	160,159	17.4%	961,303	185,439	19.3%	15.8%	4.6%	41.8	40,635	147,596	18.2%	183,881	20.0%
State of TN Total	6,812,005	1,091,516	16.0%	7,108,031	1,266,295	17.8%	16.0%	4.3%	38.7	44,621	1,212,537	17.8%	1,551,984	22.8%

\* 2015 Revised UTCBER Population Projection Series.

Source: The University of Tennessee Center for Business and Economic Research Population Projection Data Files, Reassembled by the Tennessee Department of Health, Division of Policy, Planning and Assessment.

Note: These data will not match the University of Tennessee Data exactly due to rounding.

\*\*Source: U.S. Census Bureau 2015 American Community Survey 1-Year Estimates & U.S. Census Bureau 2010-2014 American Community Survey 5-Year Estimates

\*\*\*Source: TennCare Enrollment Report for September 2016

- B. Describe the special needs of the service area population, including health disparities, the accessibility to consumers, particularly the elderly, women, racial and ethnic minorities, and low-income groups. Document how the business plans of the facility will take into consideration the special needs of the service area population.

**RESPONSE:** *The 65+ yrs age group is continuing to grow at a significant rate within the Service Area. Accordingly, there is a high prevalence of cataracts, age-related macular degeneration, glaucoma, and other eye diseases which create loss of vision in this age group requiring access to quality care and surgery in a cost effective environment. The proposed Facility can address these needs. Historically, the ESCK group physicians have treated patients from all racial, ethnic minorities, and low-income groups without discrimination and have provided a significant amount of indigent care which will continue with the proposed ASTC. The proposed ASTC will participate in all TennCare/ Medicaid programs and Medicare/Medicare Managed programs to address the special needs of these patients.*

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5. Describe the existing and approved but unimplemented services of similar healthcare providers in the service area. Include utilization and/or occupancy trends for each of the most recent three years of data available for this type of project. List each provider and its utilization and/or occupancy individually. Inpatient bed projects must include the following data: Admissions or discharges, patient days, average length of stay, and occupancy. Other projects should use the most appropriate measures, e.g., cases, procedures, visits, admissions, etc. This doesn't apply to projects that are solely relocating a service.

**RESPONSE:** *There are five existing ASTCs within the Applicant's eight county Service Area which currently provide eye services. There are no ASTCs currently licensed in five of the counties within the Service Area- Campbell, Grainger, Jefferson, Sevier and Union and no ASTC currently licensed in Blount County, TN (also within Service Area) that provides eye services. Three of these existing facilities licensed as single specialty ophthalmic ASTCs are located in Knox County, TN, and experience high utilization. The other ASTC located in Knox County, TN is licensed as multi-specialty and provides eye services but has no procedure room or equipment for eye laser procedures. The ASTC located in Anderson County is licensed as multi-specialty but performs predominantly eye surgeries and eye laser procedures and has experienced good utilization but its location is inadequate for servicing the needs of the Applicant's patients. Unstaffed dedicated outpatient Operating Rooms and Procedure Rooms were included in the inventory and measure of capacity. Over the three-year reporting period from 2013 to 2015 (per Joint Annual Reports-TN Dept. of Health-Div. of Planning and Assessment (PPA)-Health Facilities Statistics Unit), the available ASTC operating rooms/procedure rooms capacity providing eye services within the Service Area decreased from 31 to 18. For the existing active ASTCs providing eye services within the Service Area the aggregate totals for 2015 were: OR (Operating Room) Utilization as a % of HSDA State Guidelines-202.38% - ave.1789 cases/OR & PR (Procedure Room)-39.80%-ave.743 cases/PR. See Schedule of Historical Capacity & Utilization of ASTCs with Eye Service in 8 County below.*



**Historical Capacity & Utilization of ASTCs with Eye Service within 8 County Service Area**

**November 10, 2016**

			2013	2014	November 10, 2016 2015 (Final)					
ASTC	County	Oper.Rms/ Proc.Rms in 2015	Cases	Cases	Total Cases	OR Cases	Procs Cases	Procs % of Total Cases in 2015	ORs % of Utilization Std-884 cs 2015	PR % of Utilization Std-1867 cs 2015
The Eye Surgery Center of Oak Ridge Multispecialty-ASTC (Eye & Plastic)										
Ophthalmology	Anderson	2 / 1 = 3	3,090	3,112	3,328	2,205	1,023	91.76%		
Total Outpatient Surgeries			3,251	3,302	3,518	2,495	1,023		141.12%	54.79%
Eye Surgery Center of East Tennessee Single Specialty-ASTC Ophthalmology										
Ophthalmology	Knox	2 / 1 = 3	3,710	4,572	3,792	2,930	862	100.00%		
Total Outpatient Surgeries			3,710	4,572	3,792	2,930	862		165.72%	46.17%
Physicians Surgery Center of Knoxville Multispecialty-ASTC										
Ophthalmology	Knox	5 / 0 = 5	581	912	497	497	-	11.11%		N/A
Total Outpatient Surgeries			4,670	5,102	4,472	4,472	-		101.18%	N/A
Knoxville Eye Surgery Center Single Specialty-ASTC Ophthalmology										
Ophthalmology	Knox	4 / 1 = 5	10,187	9,628	14,203	13,307	896	100.00%		
Total Outpatient Surgeries			10,187	9,628	14,203	13,307	896		376.33%	47.99%
Southeast Eye Surgery Center, LLC (closed staff) Single Specialty-ASTC Ophthalmology										
Ophthalmology	Knox (245 days in 2014)	1 / 1 = 2	N/A	687	2,034	1,843	191	100.00%		
Total Outpatient Surgeries			N/A	687	2,034	1,843	191		208.48%	10.23%
Total Service Area-Active ASTCs		14 / 4 = 18								
Ophthalmology			17,568	18,911	23,854	20,782	2,972	85.14%		
Total Outpatient Surgeries			21,818	23,291	28,019	25,047	2,972		202.38%	39.80%
Cases per OR/PR			1,212	1,294	1,557	1,789	743			
ASTC's Discontinued since 2013: Advanced Family Surgery Center Multispecialty-ASTC										
Ophthalmology	Anderson	4 / 1 = 5	No longer performing eye procedures as of 2013					N/A		
Total Outpatient Surgeries			No longer performing eye procedures as of 2013						N/A	N/A
Maryville Surgery Center Multispecialty-ASTC										
Ophthalmology	Blount	4 / 0 = 4	483	N/A	N/A	N/A	N/A	N/A		
Total Outpatient Surgeries			3,342	Facility Closed in 2014			N/A		N/A	N/A
St. Mary's Ambulatory Surgery Center** Multispecialty-ASTC										
Ophthalmology	Knox 7/1/2012- 1/31/2013	6 / 0 = 6 **	728	N/A	N/A	N/A	N/A	N/A		
Total Outpatient Surgeries			3,218	N/A	N/A	N/A	N/A		N/A	N/A
**Closed 1/31/2013-now operated as Hospital Dept of Tennova Knoxville Medical Center										
	Discontinued	14 / 1 = 15								

Note: The Service Area's ASTC operating/procedure room capacity for eye surgeries has dropped from 31 to 18 over the three reported years.

Source of Information: Joint Annual Reports (JAR)-TN Dept of Health-Div. of Planning And Assessment(PPA)-Health Facilities Statistics Unit.

**November 10, 2016****3:07 pm****2. Identify the funding sources for this project.**

Check the applicable item(s) below and briefly summarize how the project will be financed. **(Documentation for the type of funding MUST be inserted at the end of the application, in the correct alpha/numeric order and identified as Attachment Section B-Economic Feasibility-2.)**

- ☒ A. Commercial loan – Letter from lending institution or guarantor stating favorable initial contact, proposed loan amount, expected interest rates, anticipated term of the loan, and any restrictions or conditions;
- ☐ B. Tax-exempt bonds – Copy of preliminary resolution or a letter from the issuing authority stating favorable initial contact and a conditional agreement from an underwriter or investment banker to proceed with the issuance;
- ☐ C. General obligation bonds – Copy of resolution from issuing authority or minutes from the appropriate meeting;
- ☐ D. Grants – Notification of intent form for grant application or notice of grant award;
- ☐ E. Cash Reserves – Appropriate documentation from Chief Financial Officer of the organization providing the funding for the project and audited financial statements of the organization; and/or
- ☒ F. Other – Identify and document funding from all other sources. (*Capital Contributions from LLC Members-\$21,000*)

**RESPONSE:** *The project's capital land & construction costs, equipment costs, and organizational costs will be financed through bank loans from First Citizens Bank-Knoxville, Tennessee, totaling \$1,850,000 and Capital Contributions from the LLC Members totaling \$21,000. See letter from lending institution- First Citizens Bank in Attachment Section B-Economic Feasibility-2.*

**3. Complete Historical Data Charts on the following two pages—Do not modify the Charts provided or submit Chart substitutions!**

Historical Data Chart represents revenue and expense information for the last *three (3)* years for which complete data is available. Provide a Chart for the total facility and Chart just for the services being presented in the proposed project, if applicable. **Only complete one chart if it suffices.**

*Note that "Management Fees to Affiliates" should include management fees paid by agreement to the parent company, another subsidiary of the parent company, or a third party with common ownership as the applicant entity. "Management Fees to Non-Affiliates" should include any management fees paid by agreement to third party entities not having common ownership with the applicant*

**RESPONSE:** *See Historical Data Chart. This represents the combined utilization data (patient encounters) and combined revenue and expense of the four ophthalmic medical practices ("ESCK group") associated with the project for the years 2013, 2014, & 2015.*



**Eye Surgery Center of Knoxville**

**November 10, 2016**

**3:07 pm**

**STAFFING ANALYSIS & PLAN**

PERSONNEL:	STATUS	FTE	ESCK HRLY RATE	HRS/ DAY	DAYS/ WK	WKS/ YR	HRS/ YR	PROJECTED COST	
								YR 1	YR 2
RN-Admin & Circulator	FTE	1.00	\$ 32.00	8	5.00	52	2,080	\$ 66,560.00	\$ 68,556.80
RN/Pre-Op/Infection Control	FTE	1.00	\$ 28.00	8	5.00	52	2,080	\$ 58,240.00	\$ 59,987.20
RN/PACU	FTE	1.00	\$ 28.00	8	5.00	52	2,080	\$ 58,240.00	\$ 59,987.20
Surgical Scrub Tech	Shared-PT	0.80	\$ 18.00	8	4.00	52	1,664	\$ 29,952.00	\$ 30,850.56
Surgical Scrub Tech	Shared-PT	0.80	\$ 18.00	8	4.00	52	1,664	\$ 29,952.00	\$ 30,850.56
Surgical Scrub Tech	Shared-PT	0.80	\$ 18.00	8	4.00	52	1,664	\$ 29,952.00	\$ 30,850.56
Direct Patient Care-FTE		5.40					11,232	\$ 272,896.00	\$ 281,082.88
Registration & Medical Records	FTE	1.00	\$ 13.00	8	5.00	52	2,080	\$ 27,040.00	\$ 27,851.20
Billing & Insurance-Administration	FTE	1.00	\$ 20.00	8	5.00	52	2,080	\$ 41,600.00	\$ 42,848.00
Non-Patient Care-FTE	-	2.00					4,160	\$ 68,640.00	\$ 70,699.20
Total FTE Equivalents	-	7.40						\$ 341,536.00	\$ 351,782.08
Staffing Taxes & Benefit Cost @	20%							\$ 68,307.20	\$ 70,356.42
*Projected Increase in Wages @ 3%/YR							TOTAL	\$ 409,843.20	\$ 422,138.50

**Schedule of Proposed Compensation by Job Discipline  
Eye Surgery Center of Knoxville**

			Source: TN Dept of Labor & Workforce Dev. Div Emp. Sec. R&S-Knoxville MSA 2015		
PERSONNEL/Job Discipline:	STATUS	ESCK HRLY RATE	Entry Level HRLY RATE	Median HRLY RATE	Experienced HRLY RATE
RN-Admin & Circulator	FTE	\$ 32.00	\$ 20.55	\$ 26.10	\$ 28.80
RN/Pre-Op/Infection Control	FTE	\$ 28.00	\$ 20.55	\$ 26.10	\$ 28.80
RN/PACU	FTE	\$ 28.00	\$ 20.55	\$ 26.10	\$ 28.80
Surgical Scrub Tech	Shared-PT	\$ 18.00	\$ 15.35	\$ 17.60	\$ 18.95
Surgical Scrub Tech	Shared-PT	\$ 18.00	\$ 15.35	\$ 17.60	\$ 18.95
Surgical Scrub Tech	Shared-PT	\$ 18.00	\$ 15.35	\$ 17.60	\$ 18.95
Registration & Medical Records	FTE	\$ 13.00	\$ 11.25	\$ 14.40	\$ 17.50
Billing & Insurance-Administration	FTE	\$ 20.00	\$ 10.40	\$ 17.20	\$ 19.65

**November 10, 2016****3:07 pm**

5. Respond to all of the following and for such occurrences, identify, explain and provide documentation:

A. Has any of the following:

- 1) Any person(s) or entity with more than 5% ownership (direct or indirect) in the applicant (to include any entity in the chain of ownership for applicant);
- 2) Any entity in which any person(s) or entity with more than 5% ownership (direct or indirect) in the applicant (to include any entity in the chain of ownership for applicant) has an ownership interest of more than 5%; and/or
- 3) Any physician or other provider of health care, or administrator employed by any entity in which any person(s) or entity with more than 5% ownership in the applicant (to include any entity in the chain of ownership for applicant) has an ownership interest of more than 5%.

B. Been subjected to any of the following:

- 1) Final Order or Judgment in a state licensure action; **RESPONSE:** *Yes. See Attachment-Section C. Contribution to Orderly Development which includes Practitioner Profile Data, Licensure Verification & Agreed Citation from State of Tennessee Department of Health-Bureau of Health Licensure and Regulation for Thomas Browning, MD related to insufficient continuing education credits maintained in 2008. The terms of the Agreed Citation regarding insufficient continuing education credits and additional required continuing education credits were subsequently met along with payment of the assessed civil penalty of \$480.*
- 2) Criminal fines in cases involving a Federal or State health care offense; **RESPONSE:** *No*
- 3) Civil monetary penalties in cases involving a Federal or State health care offense;  
**RESPONSE:** *Yes- See response in Section B. 1).above.*
- 4) Administrative monetary penalties in cases involving a Federal or State health care offense; **RESPONSE:** *No*
- 5) Agreement to pay civil or administrative monetary penalties to the federal government or any state in cases involving claims related to the provision of health care items and services; and/or **RESPONSE:** *No*
- 6) Suspension or termination of participation in Medicare or Medicaid/TennCare programs. **RESPONSE:** *No*
- 7) Is presently subject of/to an investigation, regulatory action, or party in any civil or criminal action of which you are aware. **RESPONSE:** *No*
- 8) Is presently subject to a corporate integrity agreement. **RESPONSE:** *No*

## Practitioner Profile Data

**Practitioner Profile Data****November 10, 2016****3:07 pm***This information is provided by the licensee as required by law**Print Date: 11/9/2016*

While searching for information on a particular health care professional, consumers should be aware that there are several locations available to aid them with their research. ([Licensure Verification](#), [Abuse Registry](#), [Monthly Disciplinary Actions](#), and [Recently Suspended Licenses For Failure to Pay Child Support](#)) Links to various Internet sites are available from the Department of Health Website [home page](#) and from the [Health Related Boards Website](#).

**BROWNING, THOMAS A****PRACTICE ADDRESS:**

THOMAS A BROWNING MD  
1798 ROANE STATE HWY  
Harriman, TN 37748

**LANGUAGES: (Other than English)**

None Reported

**SUPERVISING PHYSICIAN:**

None Reported

**GRADUATE/POSTGRADUATE MEDICAL/PROFESSIONAL EDUCATION AND TRAINING**

PROGRAM/ INSTITUTION	CITY STATE/ COUNTRY	DATE OF GRADUATION	TYPE OF DEGREE
UNIV OF TN MEMPHIS	MEMPHIS, TN	01/01/1985	MD

**OTHER EDUCATION AND TRAINING**

PROGRAM/ INSTITUTION	CITY STATE/ COUNTRY	FROM	TO
METH HOSP	MEMPHIS TN	01/01/1985	01/01/1986
VITREORETINAL FOUNDATION	MEMPHIS TN	01/01/1989	01/01/1989

UNIV OF TN HOSP

MEMPHIS TN

November 10, 2016  
01/01/1986 3:07 pm 01/01/1989**SPECIALTY BOARD CERTIFICATIONS****CERTIFYING BODY/  
BOARD/  
INSTITUTION****CERTIFICATION/  
SPECIALTY/  
SUBSPECIALTY**

AMER BD OF OPHTHAL

?

**FACULTY APPOINTMENTS****TITLE****INSTITUTION****CITY/STATE**

None Reported

None Reported

None Reported

**STAFF PRIVILEGES****This practitioner currently holds staff privileges at the following hospitals****HOSPITAL****CITY/STATE**

ROANE MEDICAL CENTER

HARRIMAN TN

**This practitioner currently participates in the following TennCare plans**

BLUE CARE

PHP

**FINAL DISCIPLINARY ACTION****ACTIONS BY STATE REGULATORY BOARD****AGENCY****VIOLATION****ACTION**TN BOARD OF MEDICAL  
EXAMINERSFAILED TO MAINTAIN SUFFICIENT CONTINUING  
ED CREDITSCIVIL PENALTIES, PROVIDE PROOF  
OF CEUS

**RESIGNATIONS IN LIEU OF TERMINATION****November 10, 2016****3:07 pm****HOSPITAL****ACTION**

None Reported

None Reported

**ACTIONS BY HOSPITAL****HOSPITAL****VIOLATION****ACTION**

None Reported

None Reported

None Reported

**CRIMINAL OFFENSES****OFFENSE****JURISDICTION**

None Reported

None Reported

**LIABILITY CLAIMS**

Some studies have shown that there is no significant correlation between malpractice history and a doctor's competence. At the same time, the Legislature believes that consumers should have access to malpractice information. In these profiles, the Department has given you information about both the malpractice history of the physician's specialty and the physician's history of payments. The Legislature has placed payment amounts into three statistical categories: below average, average, and above average. To make the best health care decisions, you should view this information in perspective. You could miss an opportunity for high quality care by selecting a doctor based solely on malpractice history.

When considering malpractice data, please keep in mind:

- Malpractice histories tend to vary by specialty. Some specialties are more likely than others to be the subject of litigation. This report compares doctors only to the members of their specialty, not to all doctors, in order to make individual doctor's history more meaningful.
- The incident causing the malpractice claim may have happened years before a payment is finally made. Sometimes, it takes a long time for a malpractice lawsuit to move through the legal system.
- Some doctors work primarily with high risk patients. These doctors may have malpractice histories that are higher than average because they specialize in cases or patients who are at very high risk for problems.
- Settlement of a claim may occur for a variety of reasons which do not necessarily reflect negatively on the professional competence or conduct of the provider. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred.

You may wish to discuss information provided in this report, and malpractice generally, with your doctor. The Department can refer you to other articles on this subject.

The Health Department started getting reports for claims paid after May, 1998.

**SUPPLEMENTAL #1****November 10, 2016****3:07 pm**Settlements valued below \$75,000  
are not included here.**DATE****Settlement amount was:**

None Reported

None Reported

**OPTIONAL INFORMATION****COMMUNITY SERVICE / AWARD / HONOR****DESCRIPTION****ORGANIZATION**

None Reported

None Reported

**PUBLICATIONS****TITLE****PUBLICATION****DATE**

None Reported

None Reported

None Reported

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# Search Results

**SUPPLEMENTAL #1****November 10, 2016****3:07 pm**

An official copy of this document is available, with applicable fees, from the Office of Investigations. For more information, please contact the Tennessee Department of Health, Office of Investigations, 665 Mainstream Drive, 2nd Floor, Nashville, Tennessee 37243, or 615-532-3426.

The following disciplinary information exists for the professional selected:

**Name:****Browning, Thomas****Profession:****Medical Doctor****Lic #:****17111****ACTION****REASON****EFFECTIVE  
DATE**

Assessed \$480 in civil penalties; must provide proof of 12 hours of continuing education within 180 days; and must complete an additional 10 hours of continuing education hours within 2 years.

Failed to properly maintain sufficient continuing education credits

1/27/2009

View Board Order

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**November 10, 2016**

**3:07 pm**

STATE OF TENNESSEE  
DEPARTMENT OF HEALTH  
Bureau of Health Licensure and Regulation  
Division of Health Related Boards  
227 French Landing, Suite 300  
Heritage Place  
Nashville, TN 37243

PHIL BREDESEN  
GOVERNOR

SUSAN R. COOPER, MSN, RN.  
COMMISSIONER

Board of Medical Examiners

November 26, 2008

**AGREED CITATION**  
**THOMAS A. BROWNING, M.D.**  
**LICENSE #17111**

**WHEREAS**, Respondent is licensed as a medical doctor in the State of Tennessee by the Tennessee Board of Medical Examiners, license number **17111**; and

**WHEREAS**, Respondent has failed to properly maintain sufficient continuing education credits in violation of Tenn. Code Ann. **§§ 63-6-233 and 63-6-214(b)(3)**; and

**WHEREAS**, Respondent admits that this violation occurred and does not wish for this matter to be further prosecuted by the State of Tennessee; and

**WHEREAS**, Respondent acknowledges that Respondent is aware that he or she has a right to a hearing before the Tennessee Board of Medical Examiners. At such hearing, Respondent acknowledges that he or she is aware that he or she may be represented by counsel if he or she so chooses. Moreover, Respondent acknowledges and is fully aware that no civil penalty may be assessed against him or her and no formal action may be taken against his or her license without being provided the opportunity for a hearing before the Tennessee Board of Medical Examiners. Respondent acknowledges and understands that by signing this Agreed Citation and paying a civil penalty of **four hundred eighty dollars (\$480)**, representing a penalty of forty dollars (\$40.00) per delinquent credit hour, and providing proof of completion of the required number of continuing education credits, the Respondent waives his or her right to a hearing as described herein and provided for in the Administrative Procedures Act found at Tenn. Code Ann. § 4-5-301 et seq.; and

**WHEREAS**, Respondent admits to the failure to obtain **twelve (12) hours** of required continuing education credits; and

**WHEREAS**, Respondent acknowledges and understands that if the Respondent does not



**November 10, 2016****3:07 pm**

sign this citation and return it along with a check or money order made out to the State of Tennessee for the prescribed amount within thirty (30) days, then a formal contested case proceedings could be initiated in which the Tennessee Board of Medical Examiners is authorized to assess civil penalties of up to one thousand dollars (\$1,000.00) for each violation of applicable law and the Board could refuse to renew the Respondent's license or the Respondent's license could be suspended or revoked.

**THEREFORE**, Respondent, by signing below agrees to the terms of this citation and remits a civil penalty in the amount **four hundred eighty dollars (\$480)**. The Respondent further agrees to provide proof to the Board of completion of **twelve (12) hours** of continuing education, the amount determined to be deficient within **one hundred and eighty (180) days** of ratification of this citation by the Board. Additionally, Respondent agrees to complete an additional **ten (10) hours** continuing education hours within **two (2) years** of ratification of this Agreed Citation. Furthermore, Respondent executes this citation for the sole purpose of avoiding further administrative proceedings with respect to this violation. Respondent hereby expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to challenge or contest the validity of this citation. Respondent acknowledges that this citation is subject to Board approval and agrees that consideration of this citation shall not prejudice the Board in any future proceeding should the Board not approve this citation. Respondent further acknowledges and understands that this citation will be reported on the Department of Health's Disciplinary Action Report and appear on the Department of Health's Website.

AGREED BY:

---

Thomas A. Browning, M.D.  
Respondent (License #17111)

---

Date

---

Mitchell L. Mutter, M.D., President  
Tennessee Board of Medical Examiners

---

Date

---

Matthew J. Scanlan, Esq., Deputy General Counsel  
Tennessee Department of Health

---

Date

**November 10, 2016**

**3:07 pm**

**AFFIDAVIT**

STATE OF TENNESSEE

COUNTY OF DAVIDSON

NAME OF FACILITY: Eye Surgery Center of Knoxville

I, **Stephen H Rudolph**, after first being duly sworn, state under oath that I am the applicant named in this Certificate of Need application or the lawful agent thereof, that I have reviewed all of the supplemental information submitted herewith, and that it is true, accurate, and complete.

Stephen H. Rudolph - CPS  
Signature/Title

Sworn to and subscribed before me, a Notary Public, this the 10<sup>th</sup> day of NOVEMBER, 2016,  
witness my hand at office in the County of DAVIDSON, State of Tennessee.

Matthew C Sexton  
NOTARY PUBLIC

My commission expires September 7<sup>th</sup>, 2020.

HF-0043

Revised 7/02



# Supplemental #2 -Original-

Eye Surgery Center of  
Knoxville

CN1611-038

**November 21, 2016**

**1:19 pm**

November 15, 2016

Phillip Earhart-HSD Examiner

State of Tennessee

Health Services and Development Agency

Andrew Jackson Building, 9<sup>th</sup> Floor

www.tn.gov/hsda Phone: 615-741-2364/Fax: 615-741-9884

**RE: Certificate of Need Application CN1611-038**

**Eye Surgery Center of Knoxville**

**Supplemental Information #2 & Affidavit**

Dear Mr. Earhart:

Pursuant to your letter of November 15, 2016, please find our response to the list of questions and request for supplemental information (with Affidavit) with regard to the CON application referenced above. Should you have any questions or require additional information please do not hesitate to contact me.

Kindest regards,



Stephen H. Rudolph, CPA-Consultant for

Eye Surgery Center of Knoxville

PH# 901-219-0173

Email: shrudolphsr@yahoo.com

**November 21, 2016****1:19 pm**

**State of Tennessee**  
**Health Services and Development Agency**  
Andrew Jackson Building, 9<sup>th</sup> Floor  
www.tn.gov/hsda Phone: 615-741-2364/Fax: 615-741-9884

November 15, 2016

Stephen H. Rudolph, CPA  
Eyecare Resources, LLC  
P.O. Box 381342  
Germantown, TN 38183-1342

RE: Certificate of Need Application CN1611-038  
Eye Surgery Center of Knoxville

Dear Mr. Rudolph:

This will acknowledge our November 10, 2016 receipt of your supplemental response for a Certificate of Need for the establishment of a single specialty ophthalmic ambulatory surgical treatment center at an unaddressed site on the south side of Dannaher Drive, Powell (Knox County), TN 37849. The proposed ambulatory surgical treatment center will have two operating rooms and one laser procedure room.

Several items were found which need clarification or additional discussion. Please review the list of questions below and address them as indicated. The questions have been keyed to the application form for your convenience. I should emphasize that an application cannot be deemed complete and the review cycle begun until all questions have been answered and furnished to this office.

**Please submit responses in triplicate by 4PM, November 22, 2016.** If the supplemental information requested in this letter is not submitted by or before this time, then consideration of this application may be delayed into a later review cycle.

---

**1. Section C, Need Item 5**

The applicant completed the following three tables. However, according to the 2015 Joint Annual Report the Ophthalmology procedure total for The Eye Surgery Center of Oak Ridge is 3,228, not 3,328. Please revise the following three tables and pages 19R and 32R.

**RESPONSE:** *Please find replacement page 32R with revision for 3,228 cases and revised utilization%. Please find replacement page 7R to reflect revised utilization% information in response to Section A-B. Rationale for Approval-1) Need. Also, please find replacement pages 20R & 21R with respect to revisions in response to Section B. Need-Specific Standards & Criteria for ASTC-Item 4. Need and Economic Efficiencies. Note Page 19R did*

*not change as a result of the revisions on page 32R. The following three tables have been revised to reflect the corrected cases on replacement page 32R.*

ASTC	County	Oper. Rms/ Proc. Rms	2013 Cases PR+OR	2014 Cases PR+OR	2015 Cases PR+OR	13'-15' % Change
<b>Single Specialty</b>						
Eye Surgery Center of East Tennessee	Knox	2/1=3				
Ophthalmology			3,710	4,572	3,792	2.21%
<b>Total Outpatient Surgeries</b>			<b>3,710</b>	<b>4,572</b>	<b>3,792</b>	<b>2.21%</b>
% Ophthalmologic Procedures			100.00%	100.00%	100.00%	
Knoxville Eye Surgery Center	Knox	4/1=5				
Ophthalmology			10,187	9,628	14,203	39.42%
<b>Total Outpatient Surgeries</b>			<b>10,187</b>	<b>9,628</b>	<b>14,203</b>	<b>39.42%</b>
% Ophthalmologic Procedures			100.00%	100.00%	100.00%	
Southeast Eye Surgery Center, LLC	Knox	1/1=2				
Ophthalmology			N/A	687	2,034	N/A
<b>Total Outpatient Surgeries</b>			<b>N/A</b>	<b>687</b>	<b>2,034</b>	<b>N/A</b>
% Ophthalmologic Procedures			N/A	100.00%	100.00%	
<b>Single Specialty Subtotal</b>		7/3= 10	13,897	14,887	20,029	44.12%
<b>Multi-Specialty</b>						
The Eye Surgery Center of Oak Ridge	Anderson	2/1=3				
Ophthalmology			3,090	3,112	3,228	4.47%
<b>Total Outpatient Surgeries</b>			<b>3,251</b>	<b>3,302</b>	<b>3,518</b>	<b>8.21%</b>
% Ophthalmologic Procedures			95.05%	94.25%	91.76%	
Physicians Surgery Center of Knoxville	Knox	5/0=5				
Ophthalmology			581	912	497	-14.46%
<b>Total Outpatient Surgeries</b>			<b>4,670</b>	<b>5,102</b>	<b>4,472</b>	<b>-4.24%</b>
% Ophthalmologic Procedures			12.44%	17.88%	11.11%	
<b>Multi-Specialty Subtotal</b>		7/1 = 8	7,921	8,404	7,990	0.87%
<b>Total Service Area</b>		14/ 4 = 18	<b>21,818</b>	<b>23,291</b>	<b>28,019</b>	<b>28.42%</b>

Please complete the following table for ASTC's in the proposed 8 county service area that currently provides Ophthalmologic procedures.

ASTC	County	Operating Rooms 2015			Procedure Rooms 2015		
		# ORs	Cases	% of 884 Standard	# PRs	Cases	% of 1,867 Standard
Single Specialty							
Eye Surgery Center of East Tennessee	Knox	2	2,930	165.72%	1	862	46.17%
Knoxville Eye Surgery Center	Knox	4	13,307	376.33%	1	896	47.99%
Southeast Eye Surgery Center, LLC	Knox	1	1,843	208.48%	1	191	10.23%
Subtotal (Single-Specialty)		7	18,080	292.18%	3	1,949	34.80%
Multi-Specialty							
The Eye Surgery Center of Oak Ridge	Anderson	2	2,495	141.12%	1	1,023	54.79%
Physicians Surgery Center of Knoxville	Knox	5	4,472	101.18%	N/A		
Subtotal (Multi-Specialty)		7	6,967	112.59%	1	1,023	54.79%
Grand Total Surgeries		14	25,047	202.38%	4	2,972	39.80%
Cases per OR/PR		1,789				743	



Please complete the following table that indicates the overall ASTC utilization trend for the 8 county proposed service area.

**8 County Service Area Patient Utilization  
2013-2015**

County	ASTC	2013			2014			2015			% change 13'-15'
		Oper. Rms/ Rms	Proc. Rms	Total Cases	Oper. Rms/ Rms	Proc. Rms	Total Cases	Oper. Rms/ Rms	Proc. Rms	Total Cases	
Anderson	Single-Specialty	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Anderson	Multi-specialty	2	1	3,251	2	1	3,302	2	1	3,518	8.21%
	<b>Total</b>	<b>2</b>	<b>1</b>	<b>3,251</b>	<b>2</b>	<b>1</b>	<b>3,302</b>	<b>2</b>	<b>1</b>	<b>3,518</b>	<b>8.21%</b>
Blount	Single-Specialty	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Blount	Multi-specialty	4	0	3,342	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	<b>Total</b>	<b>4</b>	<b>0</b>	<b>3,342</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
Knox	Single-Specialty	6	2	13,897	7	3	14,887	7	3	20,029	44.12%
Knox	Multi-specialty	11	0	4,670	5	0	5,102	5	0	4,472	-4.24%
	<b>Total</b>	<b>17</b>	<b>2</b>	<b>18,567</b>	<b>12</b>	<b>3</b>	<b>19,989</b>	<b>12</b>	<b>3</b>	<b>24,501</b>	<b>31.96%</b>
Service Area	Single-Specialty	6	2	13,897	7	3	14,887	7	3	20,029	44.12%
	Multi-specialty	17	1	11,263	7	1	8,404	7	1	7,990	-29.06%
	<b>Grand Total</b>	<b>23</b>	<b>3</b>	<b>25,160</b>	<b>14</b>	<b>4</b>	<b>23,291</b>	<b>1</b>	<b>4</b>	<b>28,019</b>	<b>11.36%</b>

**2. Section C, Economic Feasibility, Item 2 Funding**

It is noted the proposed project will be funded 100% by a commercial loan from First Citizens Bank-Knoxville in the amount of \$1,850,000. If needed, please revise page 38R by removing the \$21,000 contribution from the LLC members which appear to not be needed to fund this project. **RESPONSE:** *Please find replacement page 38R with removal of \$21,000 contribution from LLC members.*

In accordance with Tennessee Code Annotated, §68-11-1607(c) (5), "...If an application is not deemed complete within sixty (60) days after written notification is given to the applicant by the agency staff that the application is deemed incomplete, the application shall be deemed void." **For this application the sixtieth (60<sup>th</sup>) day after written notification is January 3, 2017. If this application is not deemed complete by this date, the application will be deemed void.** Agency Rule 0720-10-.03(4) (d) (2) indicates that "Failure of the applicant to meet this deadline will result in the application being considered withdrawn and returned to the contact person. Re-submittal of the application must be accomplished in accordance with Rule 0720-10-.03 and requires an additional filing fee." Please note that supplemental information must be submitted timely for the application to be deemed complete prior to the beginning date of the review cycle which the applicant intends to enter, even if that time is less than the sixty (60) days allowed by the statute. The supplemental information must be submitted with the enclosed affidavit, which shall be executed and notarized; please attach the notarized affidavit to the supplemental information.

If all supplemental information is not received and the application officially deemed complete prior to the beginning of the next review cycle, then consideration of the

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application could be delayed into a later review cycle. The review cycle for each application shall begin on the first day of the month after the application has been deemed complete by the staff of the Health Services and Development Agency.

Any communication regarding projects under consideration by the Health Services and Development Agency shall be in accordance with T.C.A. § 68-11-1607(d):

- (1) No communications are permitted with the members of the agency once the Letter of Intent initiating the application process is filed with the agency. Communications between agency members and agency staff shall not be prohibited. Any communication received by an agency member from a person unrelated to the applicant or party opposing the application shall be reported to the Executive Director and a written summary of such communication shall be made part of the certificate of need file.
- (2) All communications between the contact person or legal counsel for the applicant and the Executive Director or agency staff after an application is deemed complete and placed in the review cycle are prohibited unless submitted in writing or confirmed in writing and made part of the certificate of need application file. Communications for the purposes of clarification of facts and issues that may arise after an application has been deemed complete and initiated by the Executive Director or agency staff are not prohibited.

Should you have any questions or require additional information, please do not hesitate to contact this office.

Sincerely,

Phillip Earhart  
HSD Examiner

Enclosure/PME



**Historical Capacity & Utilization of ASTCs with Eye Service within 8 County Service Area**

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2015			2013	2014	1:190pm (Final)					
ASTC	County	Oper.Rms/ Proc.Rms in 2015	Cases	Cases	Total Cases	OR Cases	Proc. Rm Cases	Eye cases % of Total Cases in 2015	ORs % of Utilization Std-884 cs 2015	PR % of Utilization Std-1867 cs 2015
The Eye Surgery Center of Oak Ridge										
Multispecialty-ASTC (Eye & Plastic)	Anderson	2 / 1 = 3								
Ophthalmology			3,090	3,112	3,228	2,205	1,023	91.76%		
Total Outpatient Surgeries			3,251	3,302	3,518	2,495	1,023		141.12%	54.79%
Eye Surgery Center of East Tennessee										
Single Specialty-ASTC Ophthalmology	Knox	2 / 1 = 3								
Ophthalmology			3,710	4,572	3,792	2,930	862	100.00%		
Total Outpatient Surgeries			3,710	4,572	3,792	2,930	862		165.72%	46.17%
Physicians Surgery Center of Knoxville										
Multispecialty-ASTC	Knox	5 / 0 = 5								
Ophthalmology			581	912	497	497	-	11.11%		N/A
Total Outpatient Surgeries			4,670	5,102	4,472	4,472	-		101.18%	N/A
Knoxville Eye Surgery Center										
Single Specialty-ASTC Ophthalmology	Knox	4 / 1 = 5								
Ophthalmology			10,187	9,628	14,203	13,307	896	100.00%		
Total Outpatient Surgeries			10,187	9,628	14,203	13,307	896		376.33%	47.99%
Southeast Eye Surgery Center, LLC (closed staff)										
Single Specialty-ASTC Ophthalmology	Knox	1 / 1 = 2								
Ophthalmology	(245 days in 2014)		N/A	687	2,034	1,843	191	100.00%		
Total Outpatient Surgeries			N/A	687	2,034	1,843	191		208.48%	10.23%
Total Service Area-Active ASTCs		14 / 4 = 18								
Ophthalmology			17,568	18,911	23,754	20,782	2,972	84.78%		
Total Outpatient Surgeries			21,818	23,291	28,019	25,047	2,972		202.38%	39.80%
Cases per OR/PR			1,212	1,294	1,557	1,789	743			
ASTC's Discontinued since 2013:										
Advanced Family Surgery Center										
Multispecialty-ASTC	Anderson	4 / 1 = 5								
Ophthalmology			No longer performing eye procedures as of 2013					N/A		
Total Outpatient Surgeries			No longer performing eye procedures as of 2013						N/A	N/A
Maryville Surgery Center										
Multispecialty-ASTC	Blount	4 / 0 = 4								
Ophthalmology			483	N/A	N/A	N/A	N/A	N/A		
Total Outpatient Surgeries			3,342	Facility Closed in 2014			N/A		N/A	N/A
St. Mary's Ambulatory Surgery Center**										
Multispecialty-ASTC	Knox	6 / 0 = 6								
Ophthalmology	7/1/2012-	**	728	N/A	N/A	N/A	N/A	N/A		
Total Outpatient Surgeries	1/31/2013		3,218	N/A	N/A	N/A	N/A		N/A	N/A
**Closed 1/31/2013-now operated as										
Hospital Dept of Tennova Knoxville Medical Center										
		Discontinued	14 / 1 = 15							

Note: The Service Area's ASTC operating/procedure room capacity for eye surgeries has dropped from 31 to 18 over the three reported years.

Source of Information: Joint Annual Reports (JAR)-TN Dept of Health-Div. of Planning And Assessment(PPA)-Health Facilities Statistics Unit.

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multi-specialty ASTCs and hospital settings to single specialty ophthalmic ASTCs where efficiency may be maximized. Ophthalmic ASTCs are able to concentrate on a small subset of procedures and gain efficiencies in equipment and technology, supply cost management, training of staff, and care of the patients in the preoperative and postoperative care area. One of the best ways to increase efficiency while addressing the growing needs for cataract and other eye surgery over the next decade will be to consolidate these ophthalmic cases within the Service Area into the Applicant's proposed single specialty ophthalmic ASTC.

The ESCK group of six ophthalmic surgeons currently perform their ophthalmic surgical cases and laser eye procedures within the Service Area in three different hospital locations, one multi-specialty ASTC, and one single specialty ophthalmic ASTC. Some of the eye laser procedures are currently performed at their medical office. Several of these physicians provide eye care and perform surgery in rural hospitals beyond the Service Area. This proposed ASTC is intended to serve the Knoxville-based practice locations for the ESCK group within the Service Area and the utilization, statistics, and projections in this application do not include these patients served beyond the Service Area. None of the existing ASTCs or hospital locations can address the total comprehensive eye care needs of the patients and ophthalmic surgeons within the ESCK group.

There is a definitive need for additional surgical capacity in this Service Area. The number of operating rooms/procedures capacity in ASTCs providing eye services decreased from 31 to 18 since 2013. The existing ASTCs providing eye services are highly utilized and significantly exceed the State Guidelines. For the existing active ASTCs providing eye services within the Service Area the aggregate totals for 2015 were: OR (Operating Room) Utilization as a % of HSDA State Guidelines- 202.38% - ave. 1789 cases/OR & PR (Procedure Room)- 39.80%-ave. 743 cases/PR. The proposed project complies with State Guidelines and will not adversely affect the existing facilities.

The Applicant's goal is to increase the efficiency of the services that the ESCK group of physicians can deliver by providing the entire scope of ophthalmic surgery and eye laser procedures to its patients at one convenient location in a quality care, cost-effective environment. HSDA approval of this ASTC development will enable this group to accomplish this goal and provide the latest technological advances in eye surgery to their patients.

**2) Economic Feasibility:** The ASTC's projected surgical caseloads from the six ophthalmic surgeons in the ESCK group for the first two years of operation -4,014 Cases-YR 1 & 4,416 will generate significant positive cash flow for the Project. The net operating margin for the project is projected to exceed 46% in each year. The funding requirements for Applicant's total project cost of \$1,850,000 have been arranged through bank financing available from First Citizens Bank-Knoxville on favorable terms pending HSDA approval. The six Board Certified ophthalmologists-ESCK group and their respective practices have continued to grow in patient volume and the surgical volume they generate will assure economic feasibility of the project. The single specialty ophthalmic ASTC facility can be developed at a reasonable cost and designed to achieve maximum operational efficiency and utilization at competitive charges. The accessibility and convenience of the facility for both physicians and their patients will also contribute to the project's success and overall economic feasibility.

**3) Appropriate Quality Standards:** Each of the four ophthalmic medical practices associated with the project have been successfully providing quality eye care services to patients in the Knoxville area for over twenty years. The six ophthalmic surgeons are all Board-certified and highly respected within the Knoxville healthcare community for providing quality eye care and surgery - Stephen Franklin, MD, John Dawson, MD, Kevin Gallaher, MD, Steven Sterling, MD, Tom Browning, MD, and Matthew Lowrance, DO. In addition, Dr. John Dawson is fellowship trained as a subspecialist in cornea and anterior segment surgery. Dr. Tom Browning and Dr. Matthew Lowrance are fellowship trained as subspecialists in medical retina. The Applicant's group is committed to excellence and will seek accreditation from Accreditation Association of Ambulatory Health Care (AAAHC) and will maintain the highest degree in standard of care for the patients they serve within the Facility.

with stakeholders towards this goal

**RESPONSE:** *The potential impact of the proposed new ASTC would be minimal as reflected in the Schedule below. There are two facilities affected by the proposed new ASTC. First, Physicians Surgery Center of Knoxville is a licensed multi-specialty ASTC in Knox County and does not have a procedure room or equipment for providing eye laser procedures. This facility is not currently in network with certain major insurance plans (which restricts accessibility of patients and provider utilization of the facility). Eye cases accounted for only 11% of the total surgical cases performed within this Facility in 2015. Knoxville Eye Surgery Center is the other facility affected and the impact from the loss of ESKK group cases will be marginal for this Facility. The single specialty ophthalmic ASTC case load for Knoxville Eye Surgery Center as reported in 2015 significantly exceeds the utilization standard- State Guidelines for Growth for Operating Rooms (350.57% Utilization without ESKK cases). The Combined Facilities without ESKK cases reflects a 207.25% Utilization or 1,832 cs/OR well above the 884 cs/OR - State Guidelines. Hospital outpatient surgery rooms were not included in this review due to insufficient data available and since applicant's proposed ASTC will be limited to ophthalmic surgical procedures and should not have an adverse impact on these facilities. No cases are currently being performed in the other existing ASTCs providing eye services within the Service Area. Based on this information the Applicant's proposed ASTC would not adversely impact the existing service providers.*

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**EYE SURGERY CENTER OF KNOXVILLE (ESCK)  
IMPACT ON EXISTING ASTCS IN SERVICE AREA**

ASTC	Total-	Utilization per JAR Reports-2015			ESCK Utiliz.-2015		Without ESCK Cases	
	OR/PR	Total-OR+PR	OR Cases	PR Cases	OR Cases	PR Cases	OR Cases	PR Cases
Physicians Surgery Center of Knoxville								
Multispecialty-ASTC	5 / 0 = 5							
Ophthalmology		497	497	-	379		118	-
Total Outpatient Surgeries		4,472	4,472	-	379		4,093	-
Utilization % based on State Guidelines			101.18%	N/A			92.60%	N/A

**Knoxville Eye Surgery Center**

**Single Specialty-ASTC Ophthalmology 4 / 1 = 5**

<b>Ophthalmology</b>	14,203	13,307	896	911	250	12,396	646
<b>Total Outpatient Surgeries</b>	14,203	13,307	896	911	250	12,396	646
<b>Utilization % based on State Guidelines</b>		376.33%	47.99%			350.57%	34.60%

<b>Total Combined Facilities</b>	<b>9 / 1 = 10</b>	18,675	17,779	896	1,290	250	16,489	646
<b>Utilization % based on State Guidelines</b>			156.41%	47.99%			207.25%	34.60%
	<b>Case/OR-PR</b>		1,975	896			1,832	646

\*State Guidelines-TN HSDA in State Health Plan-1,263 CS/OR @70% min=884 CS/OR

\*State Guidelines-TN HSDA in State Health Plan-2,667 CS/PR @70% min=1,867 CS/PR

**Source of Information: Joint Annual Reports (JAR)-TN Dept of Health-Div. of Planning And Assessment(PPA)-Health Facilities Statistics Unit & Clinical data/information from ESCK Group.**

- Need and Economic Efficiencies.** An application for a Specialty ASTC should present its projections for the total number of cases based on its own calculations for the projected length of time per type of case, and shall provide any local, regional, or national data in support of its methodology. An applicant for a Specialty ASTC should provide its own definitions of the surgeries and/or procedures that will be performed and whether the Surgical Cases will be performed in an Operating Room or a Procedure Room. An applicant for a Specialty ASTC must document the potential impact that the proposed new ASTC would have upon the existing service providers and their referral patterns. A CON proposal to establish a Specialty ASTC or to expand existing services of a Specialty ASTC shall not be approved unless the existing ambulatory surgical services that provide comparable services regarding the types of Cases performed within the applicant's proposed Service Area or within the applicant's facility are demonstrated to be currently utilized at 70% or above. An applicant that is granted a CON for a Specialty ASTC shall have the specialty or limitation placed on the CON.

**November 21, 2016****1:19 pm****2. Identify the funding sources for this project.**

Check the applicable item(s) below and briefly summarize how the project will be financed. **(Documentation for the type of funding MUST be inserted at the end of the application, in the correct alpha/numeric order and identified as Attachment Section B-Economic Feasibility-2.)**

- ☒ A. Commercial loan – Letter from lending institution or guarantor stating favorable initial contact, proposed loan amount, expected interest rates, anticipated term of the loan, and any restrictions or conditions;
- ☐ B. Tax-exempt bonds – Copy of preliminary resolution or a letter from the issuing authority stating favorable initial contact and a conditional agreement from an underwriter or investment banker to proceed with the issuance;
- ☐ C. General obligation bonds – Copy of resolution from issuing authority or minutes from the appropriate meeting;
- ☐ D. Grants – Notification of intent form for grant application or notice of grant award;
- ☐ E. Cash Reserves – Appropriate documentation from Chief Financial Officer of the organization providing the funding for the project and audited financial statements of the organization; and/or
- ☐ F. Other – Identify and document funding from all other sources.

**RESPONSE:** *The project's capital land & construction costs, equipment costs, and organizational costs will be financed through bank loans from First Citizens Bank-Knoxville, Tennessee, totaling \$1,850,000. See letter from lending institution- First Citizens Bank in Attachment Section B-Economic Feasibility-2.*

**3. Complete Historical Data Charts on the following two pages—Do not modify the Charts provided or submit Chart substitutions!**

Historical Data Chart represents revenue and expense information for the last *three (3)* years for which complete data is available. Provide a Chart for the total facility and Chart just for the services being presented in the proposed project, if applicable. **Only complete one chart if it suffices.**

*Note that "Management Fees to Affiliates" should include management fees paid by agreement to the parent company, another subsidiary of the parent company, or a third party with common ownership as the applicant entity. "Management Fees to Non-Affiliates" should include any management fees paid by agreement to third party entities not having common ownership with the applicant*

**RESPONSE:** *See Historical Data Chart. This represents the combined utilization data (patient encounters) and combined revenue and expense of the four ophthalmic medical practices ("ESCK group") associated with the project for the years 2013, 2014, & 2015.*

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**AFFIDAVIT**

STATE OF TENNESSEE

COUNTY OF KNOX

NAME OF FACILITY: **Eye Surgery Center of Knoxville**

I, **Stephen H Rudolph**, after first being duly sworn, state under oath that I am the applicant named in this Certificate of Need application or the lawful agent thereof, that I have reviewed all of the supplemental information submitted herewith, and that it is true, accurate, and complete.

Stephen H. Rudolph - CPA  
Signature/Title

Sworn to and subscribed before me, a Notary Public, this the 21<sup>st</sup> day of November, 2016,  
witness my hand at office in the County of Knox, State of Tennessee.

Emily Stevens  
NOTARY PUBLIC

My commission expires May 27, 2020.

HF-0043

Revised 7/02

